



# Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Twenty-sixth Meeting Day

Thursday Morning

February 27, 2003

The House convened at 10:30 a.m. with the Speaker in the Chair.

The invocation was offered by Pastor Terry Hursh, Holy Cross Lutheran Church, Indianapolis, the guest of Representative Brian C. Bosma.

The Pledge of Allegiance to the Flag was led by Representative Bosma.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning ☐	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Moses
Buck	Murphy
Budak	Neese
Buell	Noe
Burton	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner ☐
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount ☐
Koch	Mr. Speaker

Roll Call 241: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, March 3, 2003, at 9:00 a.m.

KUZMAN

Motion prevailed.

The Speaker asked consent for the suspension of House Rule 117.2 for Monday, March 3 to allow filing of second reading amendments until 8:30 a.m., 30 minutes prior to convening. Consent was granted and the rule was suspended.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-13-16.5-2, AS AMENDED BY P.L.42-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

(1) A governor's designee, who shall serve as chairman of the commission.

(2) The commissioner of the Indiana department of transportation.

(3) The director of the department of commerce.

(4) The commissioner of the department.

(5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:

(A) Three (3) from the northern one-third (1/3) of the state.

(B) Three (3) from the central one-third (1/3) of the state.

(C) Three (3) from the southern one-third (1/3) of the state.

(6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as

provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
- (3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to the following:

- (1) Identify minority and women's business enterprises in the state.
- (2) Assess the needs of minority and women's business enterprises.
- (3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include minority and women's business enterprises on solicitation mailing lists.
- (6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.
- (7) Establish annual goals:
  - (A) for the use of minority and women's business enterprises; and
  - (B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.
- (8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

~~(g) The department shall develop size standards based on 13 CFR 121.~~

~~(h) (g)~~ The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

~~(i) (h)~~ The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 2. IC 4-13-16.5-4, AS ADDED BY P.L.195-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section 2(f)(7) of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section 2(f)(7) of this chapter are met. ~~The rules adopted by the department must provide that if a business qualifies as both a minority business enterprise and a women's business enterprise, a contract awarded to the business is considered awarded to a minority business enterprise. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:~~

- (1) minority business enterprises; or

**(2) women's business enterprises; at the election made by the procurer of goods, services, or goods and services, but not both.**

SECTION 3. **An emergency is declared for this act.**

(Reference is to HB 1129 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 25.

Page 4, between lines 9 and 10, begin a new paragraph and insert: "SECTION 2. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person who tampers with an ignition interlock device for the purpose of:

- (1) circumventing the ignition interlock device; or
- (2) rendering the ignition interlock device inaccurate or inoperative;

commits a Class B ~~infraction~~ **misdemeanor**.

(b) A person who solicits another person to:

- (1) blow into an ignition interlock device; or
- (2) start a motor vehicle equipped with an ignition interlock device;

for the purpose of providing an operable vehicle to a person who is restricted to driving a vehicle with the ignition interlock device commits a Class C infraction."

Page 4, line 25, delete "If:".

Page 4, delete lines 26 through 34.

Page 4, line 35, delete "(d)".

Page 4, delete lines 41 through 42.

Page 5, delete line 1.

Page 5, line 2, delete "the court enters the order."

Page 5, line 6, reset in roman "may".

Page 5, line 6, delete "shall".

Page 5, line 11, reset in roman "(d)".

Page 5, line 11, delete "(e)".

Page 5, line 16, delete "The court shall order that each motor vehicle".

Page 5, delete lines 17 through 18.

Page 5, line 19, delete "days after the date the court enters the order."

Page 5, line 28, reset in roman "(e)".

Page 5, line 28, delete "(f)".

Page 5, line 36, reset in roman "(f)".

Page 5, line 36, delete "(g)".

Page 7, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 4. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as provided in subsection (b), the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

**(b) The court shall order that a person convicted under section 3 of this chapter may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device.**

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

- (1) Has been convicted of violating ~~IC 9-30-5-1 or IC 9-30-5-2~~ **section 1 or 2 of this chapter**.
- (2) Is employed as the operator of a vehicle owned, leased, or

provided by the employee's employer.

(3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle."

Renumber all SECTIONS consecutively.

(Reference is to HB 1232 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

L. LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1241, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1361, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1445, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1463, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 15 through 24.

Page 7, line 39, after "section." insert **"In addition, an individual designated under this section is prohibited from receiving any inducement or incentive to sell raffle tickets on behalf of the school."**

Page 8, line 11, after "for" insert **"and dispensed at"**.

Page 9, delete lines 41 through 42.

Page 10, line 1, delete "(3)" and insert **"(2)"**.

Page 10, between lines 4 and 5, begin a new paragraph and insert: **"SECTION 23. IC 4-32-9-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 32. (a) Except as provided in subsection (b), the total prizes for a door prize event may not have a value of more than five thousand dollars (\$5,000).**

**(b) However,** The department may, by express authorization, allow a qualified organization to conduct one (1) door prize event each year where the total prizes for the door prize event may not exceed twenty thousand dollars (\$20,000).

**(c) The total value of prizes awarded for a qualified organization's door prize events in a calendar year may not exceed twenty-five thousand dollars (\$25,000). However, the prizes awarded at a door prize event held under subsection (b) may not be counted toward the annual limit set forth in this subsection.**

**(d) The proceeds of the sale of pull tabs, punchboards, and tip boards are not included in the total prize limit at a door prize event."**

Page 12, reset in roman line 38.

Page 12, between lines 41 and 42, begin a new paragraph and insert:

**"(c) The department may not suspend or revoke the license of or levy a civil penalty against a qualified organization or an individual under subsection (a)(5) unless the qualified organization or individual:**

**(1) fails to file a tax return;**

**(2) conducts a gaming event, other than an allowable event permitted under IC 4-32-9-3, without a license;**

**(3) engages in sports betting;**

**(4) operates a gambling device (as defined in IC 35-45-5-1);**

**(5) uses or possesses a technologic aid (as defined in the rules of the department);**

**(6) engages in any other conduct prohibited under IC 35-45-5; or**

**(7) engages in any other conduct that gives the appearance of impropriety."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1463 as printed February 20, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 2.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1473, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, after "If" insert **"the municipal corporation takes"**.

Page 1, line 10, after "compliance" insert **","**.

Page 1, line 10, strike "is taken by the municipal corporation, the expense involved" and insert **"the expenses incurred by the municipal corporation to bring compliance, not to exceed either:**

**(1) two thousand five hundred dollars (\$2,500) for real property that:**

**(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or**

**(B) is unimproved; or**

**(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1);"**

Page 1, line 11, after "made" delete "is" and insert **"constitute"**.

(Reference is to HB 1473 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

BARDON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1515, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 23, nays 3.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1558, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1567, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 25, nays 1.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1575, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 6.

PORTER, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1589, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1599, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1791, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1842, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1870, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 3 through 21.  
 Page 2, delete lines 26 through 27.  
 Page 2, line 28, delete "Sec. 2." and insert "Sec. 1."  
 Page 2, delete lines 36 through 42.  
 Delete pages 3 through 4.  
 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1870 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1874, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the amendment made on motion of Representative Avery adopted February 12, 2003.

Page 1, line 17, after ""property"" insert "**means**".  
 Page 2, line 20, delete "IC 36-7-17.5-10;" and insert "**IC 36-7-17.5-9;**".

Page 4, line 1, delete "6-1.1-24-1.5" and insert "IC 6-1.1-24-1.5".  
 Page 5, line 2, delete "6-1.1-24-2.2" and insert "IC 6-1.1-24-2.2".  
 Page 6, line 3, delete "6-1.1-24-4.1" and insert "IC 6-1.1-24-4.1".  
 Page 6, line 25, delete "6-1.1-24-4.5" and insert "IC 6-1.1-24-4.5".  
 Page 7, line 4, delete "6-1.1-24-6.5" and insert "IC 6-1.1-24-6.5".  
 Page 8, line 14, delete "6-1.1-24-6.7" and insert "IC 6-1.1-24-6.7".  
 Page 10, line 7, delete "6-1.1-24-6.8" and insert "IC 6-1.1-24-6.8".  
 Page 11, line 6, delete "IC 36-7-17.5-10" and insert "**IC 36-7-17.5-9**".

Page 11, line 21, delete "IC 36-7-17.5-10;" and insert "**IC 36-7-17.5-9;**".  
 Page 12, line 12, delete "6-1.1-25-7.5" and insert "IC 6-1.1-25-7.5".

Page 13, line 15, delete "10.6-3.1-25" and insert "10. IC 6-3.1-25".  
 Page 13, line 38, delete "IC 36-7-17.5-12." and insert "**IC 36-7-17.5-11.**".

Page 14, line 38, after "record" insert "**the location of the residential redevelopment area in which the credit is claimed and**".

Page 15, line 2, after "section" insert "**for a particular residential redevelopment area**".

Page 15, line 18, delete "11.6-3.1-26" and insert "11. IC 6-3.1-26".  
 Page 15, line 35, delete "IC 36-7-17.5-12." and insert "**IC 36-7-17.5-11.**".

Page 15, between lines 35 and 36, begin a new paragraph and insert:

**"Sec. 5. As used in this chapter, "rehabilitated residence" means a structure:**

**(1) that is currently being used for residential purposes; and**

**(2) in which depreciable rehabilitation expenditures of at least twenty-five thousand dollars (\$25,000) are incurred."**

Page 15, line 36, delete "5." and insert "**6.**".  
 Page 15, line 41, delete "6." and insert "**7.**".  
 Page 16, line 2, delete "7." and insert "**8.**".  
 Page 16, line 2, delete "10" and insert "**11**".  
 Page 16, line 6, delete "greater" and insert "**lesser**".  
 Page 16, line 9, delete "ten thousand dollars (\$10,000)." and insert "**five thousand dollars (\$5,000).**".

Page 16, line 10, delete "8." and insert "**9.**".  
 Page 16, line 11, delete "7" and insert "**8**".  
 Page 16, line 20, delete "9." and insert "**10.**".  
 Page 16, line 32, after "record" insert "**the location of the residential redevelopment area in which the credit is claimed and**".

Page 16, line 33, delete "7" and insert "**8**".  
 Page 16, line 38, after "section" insert "**for a particular residential redevelopment area**".

Page 16, line 41, delete "10." and insert "**11.**".  
 Page 17, line 2, delete "12.36-7-17-12" and insert "12. IC 36-7-17-12".

Page 17, line 16, delete "13.36-7-17.5" and insert "13. IC 36-7-17.5".

Page 17, delete lines 32 through 41.  
 Page 17, line 42, delete "6." and insert "**5.**".  
 Page 18, delete lines 5 through 8, begin a new paragraph and

insert:

**"Sec. 6. As used in this chapter, "rehabilitation" means the remodeling, repair, or betterment of real property in any manner or any enlargement or extension of real property in which depreciable rehabilitation expenditures of at least twenty-five thousand dollars (\$25,000) are incurred."**

Page 18, line 9, delete "8." and insert "7."  
 Page 18, line 20, delete "9." and insert "8."  
 Page 19, line 7, delete "10." and insert "9."  
 Page 19, line 20, delete "11" and insert "**10(d)**".  
 Page 19, line 24, delete "11." and insert "**10**".  
 Page 19, line 30, delete "13" and insert "**12**".  
 Page 19, line 32, delete "12" and insert "**11**".  
 Page 20, line 10, delete "10" and insert "**9**".  
 Page 20, line 11, delete "12." and insert "**11**".  
 Page 20, line 12, delete "11" and insert "**10(d)**".  
 Page 20, line 16, delete "13" and insert "**12**".  
 Page 20, line 34, delete "13." and insert "**12**".  
 Page 20, line 36, delete "10" and insert "**9**".  
 Page 20, line 38, delete "14." and insert "**13**".  
 Page 21, line 1, after "hear" insert "**oral testimony**".  
 Page 21, line 3, delete "15." and insert "**14**".  
 Page 21, line 13, delete "16." and insert "**15**".  
 Page 21, line 27, delete "17." and insert "**16**".  
 Page 21, line 29, delete "per city population of" and insert "**for each**".  
 Page 21, line 30, delete ";" and insert "**of population in a city**".  
 Page 21, line 37, after "[EFFECTIVE" insert "JULY".  
 (Reference is to HB 1874 as introduced.)  
 and when so amended that said bill do pass.  
 Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1977, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "Subsection (b) does not apply to a".  
 Page 1, delete lines 4 through 5.  
 Page 1, line 6, delete "(b)".  
 Page 1, run in lines 3 and 6.  
 Page 1, line 6, after "committed" insert "a".  
 Page 1, line 7, after "traffic" insert "**violation or moving traffic**".  
 Page 1, line 10, strike "or".  
 Page 1, line 12, strike "one (1)" and insert "**two (2)**".  
 Page 1, line 12, strike "judgment" and insert "**judgments**".  
 Page 1, line 12, after ";" insert "**or**".  
 Page 1, between lines 12 and 13, begin a new line block indented and insert:  
**"(4) had one (1) judgment entered against the person for a violation of IC 9-21-5 in which the person exceeded the maximum speed limit by at least twenty-five (25) miles per hour;"**  
 Page 1, line 16, reset in roman "(b)".  
 Page 1, line 16, delete "(c)".  
 Page 2, line 11, reset in roman "(c)".  
 Page 2, line 11, delete "(d)".  
 Page 2, line 17, reset in roman "(d)".  
 Page 2, line 17, delete "(e)".  
 Page 2, after line 21, begin a new paragraph and insert:  
**"SECTION 2. IC 9-30-3-16, AS AMENDED BY P.L. 118-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) If a person has been found to have committed a traffic offense, the court may do the following:**  
 (1) Require the person to attend and satisfactorily complete a driver improvement course that has been approved by the court and the bureau or by the bureau.  
 (2) Place the person on probation for up to one (1) year.  
 (3) Suspend the person's driver's license for up to thirty (30)

days.

(b) A driver improvement course required under subsection (a) may be financed by assessing a charge that covers the direct cost of the course. However, the charge may not exceed:

- (1) ~~thirty dollars (\$30)~~ **sixty dollars (\$60)** for a classroom presentation; or
- (2) ~~forty dollars (\$40)~~ **eighty dollars (\$80)** for a distance learning presentation."

(Reference is to HB 1977 as introduced.)  
 and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 1.

RESKE, Chair

Report adopted.

Representative Behning, who had been excused, was present.

#### ENGROSSED HOUSE BILLS ON THIRD READING

##### Engrossed House Bill 1155

Representative Grubb called down Engrossed House Bill 1155 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 242: yeas 92, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Bray.

##### Engrossed House Bill 1902

Representative Denbo called down Engrossed House Bill 1902 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

The bill was read a third time by sections and placed upon its passage.

#### HOUSE MOTION (Amendment 1902-2)

Mr. Speaker: I move that Engrossed House Bill 1902 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 9, line 34, reset in roman "(3)".  
 Page 9, line 34, delete "(2)".  
 Page 18, line 18, delete "tourism commission" and insert "**town council**".  
 Page 18, line 23, after "(20,000)." insert "**The town council shall appropriate the money received under this subdivision to the town's tourism commission.**"

Page 18, line 26, delete "tourism commission" and insert "**town council**".

Page 18, line 30, after "(20,000)." insert "**The town council shall appropriate the money received under this subdivision to the town's tourism commission.**"

Page 18, line 33, delete "county described in" and insert "**historic preservation commission for the historic district in which the riverboat is located**".

Page 18, line 34, delete "subdivision (3)".  
 Page 22, line 7, delete "county treasurer of the county" and insert "**historic preservation commission**".

Page 22, line 8, delete "county" and insert "**historic preservation commission**".

Page 22, line 12, delete "fiscal bodies of the county and the towns shall act in concert to" and insert "**historic preservation commission shall**".

Page 22, line 13, delete "The fiscal".

Page 22, delete lines 14 through 17.

Page 22, line 20, delete "paid by the treasurer of state" and insert **"appropriated to a tourism commission"**.

Page 24, line 23, delete "tourism" and insert **"town council"**.

Page 24, line 24, delete "commission".

Page 24, line 28, after "(20,000)." insert **"The town council shall appropriate the money received under this subdivision to the town's tourism commission."**

Page 24, line 29, delete "tourism" and insert **"town council"**.

Page 24, line 30, delete "commission".

Page 24, line 33, after "(20,000)." insert **"The town council shall appropriate the money received under this subdivision to the town's tourism commission."**

Page 24, line 34, delete "county described" and insert **"historic preservation commission for the historic district in which the riverboat is located"**.

Page 24, line 35, delete "in subdivision (3)".

Page 26, line 27, delete "county treasurer of the county" and insert **"historic preservation commission"**.

Page 26, line 28, delete "(b)(3)" and insert **"(b)(12)"**.

Page 26, line 28, delete "county" and insert **"historic preservation commission"**.

Page 26, line 32, delete "fiscal bodies of the counties and the towns shall act in concert" and insert **"historic preservation commission shall"**.

Page 26, line 33, delete "to".

Page 26, line 33, delete "The fiscal".

Page 26, delete lines 34 through 37.

Page 27, line 11, delete "paid by the treasurer of state" and insert **"appropriated to a tourism commission"**.

Page 33, line 25, after "restoration," insert **"and"**.

Page 33, line 25, delete "maintenance, operation" and insert **"maintenance"**.

Page 33, line 26, delete "and development".

Page 33, line 32, after "restoration," insert **"and"**.

Page 33, line 32, delete "maintenance, operation" and insert **"maintenance"**.

Page 33, line 33, delete "and development".

Page 34, line 1, delete "The historic preservation commission shall allocate money" and insert **"If the historic preservation commission allocates money from the fund, the money may be allocated in the following manner:"**.

Page 34, delete line 2.

Page 34, line 9, after "8." insert **"(a)"**.

Page 34, between lines 12 and 13, begin a new paragraph and insert:

**"(b) The annual report required under this section must include the following:**

**(1) A list of the projects completed during the preceding calendar year for which funds were distributed under section 7 of this chapter.**

**(2) If applicable, evidence of compliance with the Secretary of the Interior's standards for historic rehabilitation.**

**(3) A list of the projects related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic resort hotels located in the historic district.**

**(4) A list of the projects that may be initiated in the ensuing calendar year related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic resort hotels located in the historic district."**

(Reference is to HB 1902 as reprinted February 26, 2003.)

DENBO

There being a two-thirds vote in favor of the motion, the motion prevailed.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed House Bill 1902, begs leave to report that said bill has been amended as directed.

DENBO

Report adopted.

The question then was, Shall the bill pass?

Roll Call 243: yeas 84, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax, Hume, Jackman, and Simpson.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1092, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-5-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is established a superior court in St. Joseph County, Indiana, which court shall consist of eight (8) judges.

**(b) To be eligible to hold office as a judge of a St. Joseph superior court, a person must be:**

**(1) a resident of St. Joseph County;**

**(2) less than seventy (70) years of age at the time of taking office; and**

**(3) admitted to the practice of law in Indiana.**

SECTION 2. IC 33-5-40-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The St. Joseph superior court shall hold its sessions in the St. Joseph County courthouse in the city of South Bend and in at least one appropriate place in the city of Mishawaka. ~~The superior court in the city of Mishawaka shall be full time and shall exercise full superior court jurisdiction in that city.~~ The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities, such facilities to include suitable and convenient courtrooms, jury rooms and offices for the judges, secretaries and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law irrespective of the city in which they are located.

SECTION 3. IC 33-5-40-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 41. (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be ~~domestic~~ **a resident of the county of St. Joseph, a citizen of the United States, less than seventy (70) years of age at the time of taking office,** and admitted to the practice of law in the courts of this state.

(b) In abiding by the mandate in subsection (a) of this section, the commission shall evaluate in writing each eligible individual on the following factors:

(1) Law school record, including any academic honors and achievements;

(2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs;

(3) Activities in public service, including:

(i) **(A)** writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, testimony before public agencies;

(ii) **(B)** efforts and achievements in improving the administration of justice;

(iii) **(C)** other conduct relating to his profession.

- (4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge;
- (5) Probable Judicial temperament;
- (6) Physical condition, including age, stamina, and possible habitual intemperance;
- (7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness and dedication;
- (8) Membership on boards of directors, financial interest, and any other consideration which might create conflict of interest with a judicial office;
- (9) Any other pertinent information which the commission feels is important in selecting the best qualified individuals for judicial office.

(c) These written evaluations shall not be made on an individual until he states in writing that he desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate shall not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court."

Page 3, after line 21, begin a new paragraph and insert:

**"SECTION 5. [EFFECTIVE JULY 1, 2003] IC 33-5-40-1, as amended by this act, does not apply to a judge who holds office on June 30, 2003, until the end of the judge's current term."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1092 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1126, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 5, begin a new paragraph and insert:  
"SECTION 1. IC 4-15-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. (a) Any regular employee may file a complaint if his status of employment is involuntarily changed or if he deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in his status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within such time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and his immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, such complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the Appointing Authority.

Step III: The Appointing Authority or his designated representative shall hold such hearings and conduct such investigations as he deems necessary to render a decision and shall make such decision in writing within ten (10) consecutive working days.

(b) Should the appointing authority or his designated representative not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or his designee shall review the complaint and render a decision within fifteen (15) calendar days. If the decision is

not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission no later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or his designee. After submission of the appeal, the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race or because of membership in an employee organization, the employee shall be reinstated to his position without loss of pay. In all other cases the appointing authority shall follow the recommendation of the commission which may include reinstatement and payment of salary or wages lost by the employee which may be mitigated by any wages the employee earned from other employment during a dismissed or suspended period.

(c) If the recommendation of the commission is not agreeable to the employee, the employee, within fifteen (15) calendar days from receipt of the commission recommendation, may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained in labor relations, and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues which were presented to the commission and shall afford the parties a public hearing with the right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission."

Page 1, line 6, delete "Sec. 1. This chapter applies" and insert "(d) Subsections (e) through (k) apply".

Page 1, line 14, delete "Sec. 2. (a)" and insert "(e)".

Page 1, line 15, delete "IC 4-15-2-35," and insert "subsections (a) through (c)".

Page 1, line 15, delete "this chapter" and insert "subsections (f) through (k)".

Page 1, line 16, delete "section 1 of this chapter." and insert "subsection (d)".

Page 1, line 17, delete "(b)" and insert "(f)".

Page 2, line 36, after "(8)." insert "In the alternative, the teacher may submit the grievance directly to arbitration as described in subdivision (11)."

Page 3, line 7, after "subdivision" insert "(9) or".

Page 3, line 10, delete "(c)" and insert "(g)".

Page 3, line 11, delete "(b)(11)" and insert "(f)(9) or (f)(11)".

Page 3, line 18, delete "(d)" and insert "(h)".

Page 3, line 18, delete "this chapter" and insert "subsections (f) through (k)".

Page 3, line 21, delete "(e)" and insert "(i)".

Page 3, line 22, delete "(b)," and insert "(f)".

Page 3, line 24, delete "(f)" and insert "(j)".

Page 3, line 24, delete "this chapter" and insert "subsections (f) through (k)".

Page 3, line 25, delete "to represent the teacher in the grievance" and insert "from inside or outside the institution to represent the teacher in subdivisions (5) through (12) of the grievance procedure under subsections (f) through (k)."

Page 3, delete line 26.

Page 3, line 27, delete "(g)" and insert "(k)".

Page 3, delete lines 29 through 42.

Page 4, delete lines 1 through 21.

Page 8, line 1, delete "twenty (20)" and insert "fifteen (15)".

Page 8, delete lines 6 through 42.

Delete pages 9 through 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1126 as printed February 14, 2003.)  
and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 5.

CRAWFORD, Chair

Report adopted.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.3. "Bank", for purposes of IC 13-18-23, means the Indiana wetlands mitigation bank established by IC 13-18-23-1.

SECTION 2. IC 13-11-2-23.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23.4. "Category I wetland", for purposes of IC 13-18-22, means an isolated wetland that supports minimal wildlife habitat and minimal hydrological and recreational functions.

SECTION 3. IC 13-11-2-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23.5. "Category II wetland", for purposes of IC 13-18-22, means an isolated wetland that supports moderate wildlife habitat or hydrological and recreational functions.

SECTION 4. IC 13-11-2-23.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23.6. "Category III wetland", for purposes of IC 13-18-22, means an isolated wetland that supports superior wildlife habitat or hydrological and recreational functions."

Page 1, line 3, delete "and" and insert ",".

Page 1, line 3, after "IC 13-14-8," insert "and IC 13-18-22,".

Page 1, between lines 5 and 6, begin a new paragraph and insert: "SECTION 6. IC 13-11-2-36.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36.3. "Compensatory mitigation", for purposes of IC 13-18-23, means the:

- (1) restoration;
- (2) creation;
- (3) enlargement; or
- (4) enhancement;

of wetlands to offset or compensate for a loss of wetlands resulting from an authorized discharge of fill materials.

SECTION 7. IC 13-11-2-48.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48.5. "CWA wetland", for purposes of IC 13-18-23, refers to a wetland that is navigable waters under Section 404(a) of the Clean Water Act."

Page 1, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 10. IC 13-11-2-112.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 112.5. "Isolated wetland", for purposes of this chapter and IC 13-18-22, means a wetland not subject to the jurisdiction of:

- (1) the United States Environmental Protection Agency; or
- (2) the United States Army Corps of Engineers."

Page 2, between lines 4 and 5, begin a new paragraph and insert: "SECTION 12. IC 13-11-2-139.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 139.8. "Newly formed wetland", for purposes of IC 13-18-22, means an isolated wetland:

- (1) in an area that was not a wetland after July 1, 2003; and
- (2) that was:
  - (A) created by the property owner;
  - (B) restored to improved wetland condition by the property owner;
  - (C) allowed by the property owner to be naturally restored to improved wetland condition; or
  - (D) created by natural or human activities outside the

knowledge or control of the property owner."

Page 2, between lines 9 and 10, begin a new paragraph and insert: "SECTION 14. IC 13-11-2-221.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 221.5. "State regulated wetland", for purposes of IC 13-18-23, means an isolated wetland located in Indiana that is not an exempt wetland.

SECTION 15. IC 13-11-2-245.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 245.5. "Volitional wetland", for purposes of IC 13-18-23, means an isolated wetland that:

- (1) is located on:
  - (A) privately owned land; or
  - (B) publicly owned land;
- (2) was restored, created, or expanded in the absence of a governmental order, directive, or regulatory requirement concerning the restoration, creation, or enlargement of the wetland; and
- (3) has not been applied for or used as compensatory mitigation or another regulatory purpose that would have the effect of subjecting the wetland to regulation as waters by:
  - (A) the department; or
  - (B) another governmental entity.

SECTION 16. IC 13-11-2-265, AS AMENDED BY P.L.183-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 265. (a) "Waters", for purposes of water pollution control laws and environmental management laws, means:

- (1) the accumulations of water, surface and underground, natural and artificial, public and private; or
- (2) a part of the accumulations of water; that are wholly or partially within, flow through, or border upon Indiana.

(b) The term "waters" does not include:

- (1) a water body or wetland described in IC 13-18-22-1(b);
- (2) a private pond; or
- (3) an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge. ~~unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.~~

SECTION 17. IC 13-11-2-265.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 265.1. "Wetland activity", for purposes of IC 13-18-22, means the:

- (1) filling;
- (2) dredging; or
- (3) excavation;

of an isolated wetland.

SECTION 18. IC 13-11-2-265.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 265.2. "Wetlands", for purposes of IC 13-18-22, means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 19. IC 13-11-2-265.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 265.7. "Wetlands delineation", for purposes of IC 13-18-23, means a technical assessment of whether a wetland exists on an area of land and, if so, of what type and quality, based on the presence or absence of wetlands characteristics, as determined consistent with the Wetlands Delineation Manual, Technical Report Y-87-1 of the United States Army Corps of Engineers."

Page 5, after line 3, begin a new paragraph and insert:

"SECTION 22. IC 13-15-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The water pollution control board shall establish requirements for the issuance of permits to control water pollution and atomic radiation, including



the following:

- (1) Permits to control or limit the discharge of any contaminants into state waters or into a publicly owned treatment works.
- (2) Permits for the construction, installation, or modification of facilities, equipment, or devices to control or limit any discharge, emission, or disposal of contaminants into the waters of Indiana or into a publicly owned treatment works.
- (3) Permits for the operation of facilities, equipment, or devices to control or limit the discharge, emission, or disposal of any contaminants into the waters of Indiana or into a publicly owned treatment works.

However, the water pollution control board may not require a permit under subdivision (2) for any facility, equipment, or device constructed, installed, or modified as part of a surface coal mining operation that is operated under a permit issued under IC 14-34.

**(b) The water pollution control board shall establish requirements for the issuance of permits for wetlands activity under IC 13-18-22 to:**

- (1) assure no net loss of isolated wetlands in Indiana; and**
- (2) promote a net gain in high quality functions of wetlands.**

SECTION 23. IC 13-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A permit issued under:

- (1) this article (except IC 13-15-9);
- (2) IC 13-17-11;
- (3) IC 13-18-18; or
- (4) IC 13-20-1;

may be issued for any period determined by the department to be appropriate but not to exceed five (5) years.

**(b) A permit issued under IC 13-18-22 for wetlands activity may be issued for any period determined by the department to be appropriate.**

**(c)** Except as provided in federal law, a valid permit that has been issued under this chapter that concerns an activity of a continuing nature may be renewed for a period of not more than ten (10) years as determined by the department. The board shall adopt rules implementing this subsection.

**(d)** The commissioner may delegate authority to issue or deny permits to a designated staff member.

SECTION 24. IC 13-17-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The board consists of the following ~~eleven (11)~~ **twelve (12)** members:

- (1) The following ex officio, **nonvoting** members:
  - (A) The commissioner of the state department of health.
  - (B) The director of the department of natural resources.
  - (C) The lieutenant governor.
- (2) The following eight (8) members, who shall be appointed by the governor based on recommendations from representative constituencies:
  - (A) One (1) representative of agriculture.
  - (B) One (1) representative of manufacturing employed by an entity that has applied for or received a Title V operating permit.
  - (C) One (1) representative of environmental interests.
  - (D) One (1) representative of labor.
  - (E) One (1) representative of local government.
  - (F) One (1) health professional who holds a license to practice in Indiana.
  - (G) One (1) representative of small business.
  - (H) One (1) representative of the general public, who cannot qualify to sit on the board under any of the other clauses in this subdivision.

An individual appointed under this subdivision must possess knowledge, experience, or education qualifying the individual to represent the entity the individual is being recommended to represent.

**(3) One (1) nonvoting advisory member who:**

- (A) is an economist; and**
- (B) shall be appointed by the governor.**

SECTION 25. IC 13-17-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Not more than

~~four (4)~~ **five (5)** of the appointed members of the board may be members of the same political party.

SECTION 26. IC 13-17-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Six (6)~~ **Five (5)** members of the board ~~four (4) of whom must be appointed members of the board;~~ constitute a quorum.

SECTION 27. IC 13-17-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The governor shall annually select:

- (1) one (1) of the ~~eight (8)~~ appointed members of the board to serve as chairman; and
- (2) another of the appointed members of the board to serve as vice chairman.

SECTION 28. IC 13-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The board shall ~~select from a list of three (3) qualified individuals recommended by the governor;~~ **contract with:**

- (1) an individual who:**
  - (A) is an independent third party; who and**
  - (B) is not an employee of the state;**
- (2) a business firm; or**
- (3) a legal firm;**

to serve as technical secretary of the board.

**(b)** ~~During the interim between meetings of the board;~~ The ~~department technical secretary~~ shall do the following:

- (1) Handle correspondence.
- (2) Make or arrange for investigations and surveys.
- (3) Obtain, assemble, or prepare reports and data as directed by the board.

~~(c) The technical secretary shall:~~

- (4) Review all materials prepared for the board by the department to make any necessary revisions.**
- (5) Serve as a hearing officer as directed by the board.**
- (6) Convene and lead meetings to discuss matters pending before the board.**
- (7) Initiate and manage rulemaking efforts in cooperation with the department.**

**(c)** Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the technical secretary.

**(d)** The technical secretary is not a voting member of the board.

SECTION 29. IC 13-17-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The board may ~~select from a list of three (3) qualified individuals recommended by the governor;~~ **contract with:**

- (1) an individual who:**
  - (A) is an independent third party; who and**
  - (B) is not an employee of the state; or**
- (2) a legal firm;**

to serve as legal counsel.

**(b)** The legal counsel shall do the following:

- (1) Advise the board on legal matters or proceedings arising from the exercise of the board's duties.
- (2) Review all materials prepared for the board by the **technical secretary and the department** for legal accuracy and sufficiency and direct the **technical secretary and the department** to make any necessary revisions.

~~(b)(c)~~ Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the legal counsel. The legal counsel is not a voting member of the board.

SECTION 30. IC 13-18-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The board consists of the following ~~eleven (11)~~ **twelve (12)** members:

- (1) The following ex officio, **nonvoting** members:
  - (A) The commissioner of the state department of health.
  - (B) The director of the department of natural resources.
  - (C) The lieutenant governor.
- (2) The following eight (8) members, who shall be appointed by the governor based on recommendations from representative constituencies:
  - (A) One (1) representative of agriculture.

- (B) One (1) representative of manufacturing employed by an entity that holds an NPDES major permit.
- (C) One (1) representative of environmental interests.
- (D) One (1) representative of labor.
- (E) One (1) representative of local government.
- (F) One (1) health professional who holds a license to practice in Indiana.
- (G) One (1) representative of small business.
- (H) One (1) representative of the general public, who cannot qualify to sit on the board under any of the other clauses in this subdivision.

**(3) One (1) nonvoting advisory member who:**  
**(A) is an economist; and**  
**(B) shall be appointed by the governor.**

(b) An individual appointed under subsection (a)(2) must possess knowledge, experience, or education qualifying the individual to represent the entity the individual is being recommended to represent.

SECTION 31. IC 13-18-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Not more than ~~four~~ **(4) five (5)** of the appointed members of the board may be members of the same political party.

SECTION 32. IC 13-18-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~Six (6)~~ **Five (5)** members of the board ~~four (4) of whom must be appointed members of the board;~~ constitute a quorum.

SECTION 33. IC 13-18-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The board shall ~~select from a list of three (3) qualified individuals recommended by the governor;~~ **contract with:**

- (1) an individual who:**
  - (A) is an independent third party; who and**
  - (B) is not an employee of the state;**
- (2) a business firm; or**
- (3) a legal firm;**

to serve as technical secretary of the board.

(b) ~~Between meetings of the board;~~ The department technical secretary shall do the following:

- (1) Handle correspondence.
- (2) Make or arrange for investigations and surveys.
- (3) Obtain, assemble, or prepare reports and data as directed by the board.

~~(c) The technical secretary shall:~~

- (4) Review all materials prepared for the board by the department to make any necessary revisions.**
- (5) Serve as a hearing officer as directed by the board.**
- (6) Convene and lead meetings to discuss matters pending before the board.**
- (7) Initiate and manage rulemaking efforts in cooperation with the department.**

(c) Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the technical secretary.

**(d) The technical secretary is not a voting member of the board.**

SECTION 34. IC 13-18-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The board may ~~select from a list of three (3) qualified individuals recommended by the governor;~~ **contract with:**

- (1) an individual who:**
  - (A) is an independent third party; who and**
  - (B) is not an employee of the state; or**
- (2) a legal firm;**

to serve as legal counsel.

**(b) The legal counsel shall do the following:**

- (1) Advise the board on legal matters or proceedings arising from the exercise of the board's duties.
- (2) Review all materials prepared for the board by the **technical secretary and the department** for legal accuracy and sufficiency and direct the **technical secretary and the department** to make any necessary revisions.

~~(b) (c)~~ Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the legal counsel. The legal counsel is not a voting member of the

board.

SECTION 35. IC 13-18-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) The ~~water pollution control~~ board shall adopt rules for the control and prevention of pollution in waters of Indiana with any substance:**

- (1) that is deleterious to:**
  - (A) the public health; or**
  - (B) the prosecution of any industry or lawful occupation; or**
- (2) by which:**
  - (A) any fish life or any beneficial animal or vegetable life may be destroyed; or**
  - (B) the growth or propagation of fish life or beneficial animal or vegetable life is prevented or injuriously affected.**

**(b) The board shall adopt rules to establish the period in which the department must act on an application for certification under Section 401 of the Clean Water Act. Until the board adopts rules to establish the period, the department must act on an application not later than one hundred twenty (120) days after the date the application is filed with the department.**

SECTION 36. IC 13-18-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 22. Wetlands**

**Sec. 1. (a) Except as provided in subsections (b), (c), and (d), a permit is required for wetland activities in an isolated wetland.**

**(b) A permit under subsection (a) is not required for wetland activities in the following:**

- (1) A manmade water body and the wetland fringe of the water body that:**
  - (A) serve a beneficial use; and**
  - (B) are not constructed to fulfill a wetland regulatory purpose;**
- including storm water retention and detention ponds, ornamental ponds, livestock watering ponds, fishing ponds, or ponds constructed for pollution control purposes.**
- (2) A newly formed wetland that is not used for:**
  - (A) a compensatory mitigation purpose; or**
  - (B) another regulatory purpose.**
- (3) A wetland regulated under a federal agricultural law supervised by the Natural Resource Conservation Service of the United States Department of Agriculture.**
- (4) A Category I wetland smaller than one-half (1/2) acre.**
- (5) A wetland created solely as the result of actions that were taken for a purpose other than creating the wetland.**
- (6) Other wetlands, as established by the board.**

**(c) A permit under subsection (a) is not required for agricultural activities listed under Section 404(f) of the Clean Water Act.**

**(d) A permit under subsection (a) is not required for any activity for which the department of natural resources has approved a plan to minimize, to the extent possible using the best technology currently available, disturbances and adverse impacts on fish and wildlife and related environmental values and to enhance those resources where practicable.**

**Sec. 2. The department shall issue an individual permit to a person for wetland activities in an isolated wetland if:**

- (1) the person meets the requirements of section 3 of this chapter; and**
- (2) the general permit requirements of section 5 of this chapter do not apply.**

**Sec. 3. A person qualifies for an individual permit under section 2 of this chapter if the person meets the requirements of the individual permit rule adopted under section 4 of this chapter.**

**Sec. 4. The board shall adopt a rule before July 1, 2005, for the administration of individual permits under this chapter that must include:**

- (1) an application form that includes:**
  - (A) the wetland categorization;**
  - (B) a wetland delineation;**
  - (C) a project description;**
  - (D) a description of the acreage subject to the wetland**

activity; and

(E) site photographs;

(2) a demonstration that wetland disturbance cannot be avoided;

(3) a demonstration that wetland disturbance is minimized;

(4) a commitment that water quality in surface waters of the state will not be degraded as the result of the wetland activity;

(5) circumstances and conditions for mitigation requirements;

(6) the time permitted for the department to make a determination on the application; and

(7) a requirement that the department publish notice under IC 5-3-1:

(A) of receipt of an application for an individual permit; and

(B) that the department will hold a public hearing on the application in the county where the wetland is located if:

(i) a person requests a public hearing not later than fifteen (15) days after the date of publication; and

(ii) the department determines there is sufficient interest to hold a public hearing.

**Sec. 5.** A person qualifies under a general permit for wetland activity if the wetland activity proposed by the person meets the requirements of the general permit rule adopted under section 6 of this chapter.

**Sec. 6.** The board shall adopt a rule before July 1, 2005, for the administration of general permits under this chapter that must include:

(1) procedures for submission to the department of a notice of intent to conduct wetland activity under a general permit that includes:

(A) a demonstration that wetland disturbance cannot be avoided;

(B) a demonstration that wetland disturbance is minimized; and

(C) a proposed mitigation project;

(2) a period of not more than thirty (30) days after the submission of the notice of intent under subdivision (1) during which the department may review whether the criteria for the general permit are met; and

(3) procedures under which the department:

(A) may, after a determination under subdivision (2) that the criteria for the general permit are not met, require the person to apply for an individual permit under this chapter; and

(B) must provide to the person a written statement of its reasons for the determination under clause (A).

**Sec. 7.** (a) The board shall adopt a rule before July 1, 2005, to establish procedures to:

(1) designate specific real property as outstanding state wetlands; and

(2) remove real property from the designation under subdivision (1).

(b) The rule under subsection (a):

(1) may permit designation as outstanding state wetlands only real property that includes:

(A) wetlands that are rare and ecologically important; and

(B) a suitable buffer area surrounding the wetlands; and

(2) must prohibit wetland activity on outstanding state wetlands unless the wetland activity:

(A) is temporary; or

(B) is designed to maintain ecologically important wetland qualities.

(c) If real property is designated under this section as outstanding state wetlands:

(1) the real property must be designated as a permanent conservation easement under IC 32-23-5; and

(2) the department:

(A) shall compensate the owner of the real property for the loss of development rights to the property; and

(B) if the designation under subdivision (1) results in a reduction of the property tax assessment of the real property, annually pay to the county an amount equal to the resultant reduction of property taxes due and payable on the property during the year.

**Sec. 8.** (a) The department shall create and maintain a registry of newly formed wetlands that maintains documentation that the area was not a wetland at a particular time.

(b) The department may charge:

(1) a fee of not more than one hundred dollars (\$100) for registration in the registry under subsection (a); and

(2) a fee of not more than fifty dollars (\$50) per year to maintain the registration.

(c) The department shall use the revenue from the fees under subsection (b) for the operation of the registry under subsection (a).

**Sec. 9.** (a) A requirement for compliance with surface water quality standards is incorporated into each permit under this chapter for the duration of the wetland activity.

(b) Noncompliance with the permit is not a violation of water quality standards unless the quality of the water leaving the project area is impaired.

**SECTION 37.** IC 13-18-23 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 23. Indiana Wetlands Mitigation Bank Program**

**Sec. 1.** The bank program is established to promote the restoration, creation, or enlargement of wetlands that may be used as mitigation credits to offset losses of regulated wetlands occurring as a result of development projects.

**Sec. 2.** (a) Mitigation credits acquired from owners of wetlands registered in the bank under this chapter may be used to provide compensatory mitigation for projects at any location in Indiana involving a discharge of fill materials into:

(1) a state regulated wetland; or

(2) if the mitigation credits meet applicable eligibility criteria under federal law, a CWA wetland.

(b) The application of mitigation credits acquired under this chapter to compensatory mitigation needs associated with a project involving the discharge of fill materials into a state regulated wetland must be consistent with the following:

(1) The mitigation credits may be applied regardless of the relative locations of the wetland in the bank on which the credits are based and the state regulated wetland to be filled.

(2) The ratio of mitigation credits to the acreage of state regulated wetland to be filled must be:

(A) one to one (1:1) if the mitigation credits are based on a wetland of the same general type as the state regulated wetland to be filled;

(B) three to one (3:1) if the state regulated wetland being filled is a Category III wetland; or

(C) one and one-half to one (1.5:1) in all other cases.

(c) For purposes of subsection (b)(2), the general wetland types are:

(1) open water/emergent wetlands;

(2) scrub/shrub wetlands; and

(3) forested wetlands.

(d) Any additional conditions determined by the board in rules adopted under subsection (f) must be reasonable, necessary, and consistent with this chapter.

(e) The department shall administer the bank program in accordance with this chapter.

(f) The board shall adopt procedural rules under IC 4-22-2 and IC 13-14 not later than December 1, 2004, to facilitate:

(1) the administration of the bank; and

(2) transactions involving mitigation credits for wetlands registered with the bank;

consistent with this chapter. Implementation of this chapter may not be delayed while rules are being developed by the board under this subsection.

**Sec. 3.** (a) A wetland must be registered with the bank before

mitigation credits based on the wetlands may be sold for use under this chapter. Wetlands that may be registered with the bank include:

- (1) volitional wetlands existing before the effective date of this chapter; and
- (2) volitional wetlands restored, created, or enlarged after the effective date of this chapter.
- (b) To register a wetland with the bank, the owner of the wetland must submit a registration form to the department that:
  - (1) identifies the voluntary wetland by location and acreage;
  - (2) provides the name and address of the owner;
  - (3) states when the restoration, creation, or enlargement of the wetland began;
  - (4) represents that the wetland is not:
    - (A) a state regulated wetland; or
    - (B) a CWA wetland;
  - (5) includes a wetlands delineation report that describes:
    - (A) the type of the wetland;
    - (B) the quality of the wetland, taking into consideration its age, type, and hydrogeologic setting; and
    - (C) the expected stability of the wetland; and
  - (6) includes a one (1) time registration fee in the amount of the lesser of:
    - (i) ten dollars (\$10) per acre; or
    - (ii) one hundred dollars (\$100) per wetland.
- (c) The department shall provide a form for registration of wetlands with the bank.
- (d) The department may refuse to register a wetland proposed for the bank if:
  - (1) the quality of the wetland is not reasonably consistent with its age, type, and hydrogeologic setting; or
  - (2) the wetland's features and quality are not stable.

(e) The department shall:

- (1) give written notice of its refusal to register a wetland in the bank to the person that submitted the registration form for the wetland not later than ninety (90) days after the department's receipt of the registration form; and
  - (2) support its refusal with a statement of reasons.
- If notification of a refusal to register a wetland is not provided as described in this subsection, a wetland for which a registration form is submitted to the department in accordance with this section is considered to be registered in the bank.

(f) A property owner may notify the department of intent to register a wetland with the bank before restoration, creation, or enlargement of the wetland.

(g) The owner of a wetland that has been registered with the bank may cancel the registration and withdraw the wetland from the bank at any time before mitigation credits are sold under this chapter on the basis of the registered wetland.

Sec. 4. (a) A person may acquire wetlands mitigation credits to satisfy compensatory mitigation needs by the purchase of credits at market price from an owner of wetlands acreage registered in the bank. The mitigation credits may be used to provide compensatory mitigation for projects involving a discharge of fill materials into:

- (1) a state regulated wetland; or
- (2) if the credits satisfy federal criteria for mitigation banks, a CWA wetland.

One (1) unit of credit corresponds to one (1) acre of registered wetlands. Fractional credits may be purchased.

(b) A person that purchases wetlands mitigation credits under this section shall do the following:

- (1) Not later than five (5) days after the date of purchase, give the department a notice of the purchase in writing that includes the following:
  - (A) The name and address of the purchaser.
  - (B) The name and address of the seller.
  - (C) The amount of credits purchased.
  - (D) The registration number and location of the registered wetland corresponding to the credits purchased.

(E) The purchase price.

(2) Pay a fee of twenty-five dollars (\$25) to the department with respect to each sale of credits of any amount based on a wetland registered with the bank.

(c) A registered wetland that is the basis of a sale of mitigation credits under subsection (a) is reclassified as a state regulated wetland when the credits sold correspond to the entire acreage of the registered wetland.

(d) If the sale of credits involves less than the total acreage of the registered wetland:

- (1) the fraction of the acreage of the registered wetland not committed to a sale of credits remains available for future sale of mitigation credits; and
- (2) the wetland is reclassified as a transitional registered wetland.

(e) A transitional registered wetland is reclassified as a state regulated wetland when the cumulative credits sold with respect to the transitional registered wetland correspond to the entire acreage of the wetland.

(f) No action by the department is required to effectuate the reclassification of a wetland under this section.

(g) A wetland may not remain in transitional registered wetland status for more than ten (10) years. A transitional registered wetland is reclassified as a state regulated wetland at the end of the ten (10) year period beginning on the date of the initial sale of credits based on the wetland if the full number of potential mitigation credits corresponding to the transitional registered wetland is not sold by the end of that period. If a wetland has been reclassified as a state regulated wetland under this subsection, the owner of the wetland property may continue to sell the credits corresponding to the wetland that remain unsold at the time of the reclassification.

(h) A person that has purchased mitigation credits under this section but has not applied the credits to compensatory mitigation requirements for a wetlands development project may resell some or all of the credits to another person. If the owner of a registered wetland redeems mitigation credits previously sold to another person by repurchasing the credits, the amount of redeemed credits is restored to the remaining credit balance in the bank pertaining to the registered wetland.

(i) Each owner of a registered wetland shall provide to the department not later than March 1 of each year a summary of transactions involving credits in the registered wetland that occurred during the preceding calendar year.

(j) The department shall maintain records on each wetland registered in the bank that include:

- (1) the acreage and location of the wetland;
- (2) the cumulative number of mitigation credits sold on the basis of the registered wetland;
- (3) the remaining balance of credits available for sale attributable to the registered wetland;
- (4) the date of each sale of mitigation credits and the number of credits sold; and
- (5) the name and address of the current owner of each mitigation credit sold on the basis of the registered wetland.

SECTION 38. IC 13-19-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The board consists of thirteen (13) fourteen (14) members as follows:

- (1) The following ex officio, **nonvoting** members:
  - (A) The commissioner of the state department of health.
  - (B) The director of the department of natural resources.
  - (C) The lieutenant governor.
- (2) The following ten (10) members, who shall be appointed by the governor based on recommendations from representative constituencies:
  - (A) One (1) representative of agriculture.
  - (B) One (1) representative of manufacturing.
  - (C) One (1) representative of environmental interests.
  - (D) One (1) representative of labor.
  - (E) One (1) representative of local government.
  - (F) One (1) health professional who holds a license to practice in Indiana.

- (G) One (1) representative of small business.
- (H) One (1) representative of the general public, who cannot qualify to sit on the board under any of the other clauses in this subdivision.
- (I) One (1) representative of the solid waste management industry.
- (J) One (1) representative of the solid waste management districts.

**(3) One (1) nonvoting advisory member who:**  
**(A) is an economist; and**  
**(B) shall be appointed by the governor.**

(b) An individual appointed under subsection (a)(2) must possess knowledge, experience, or education qualifying the individual to represent the entity the individual is being recommended to represent.

SECTION 39. IC 13-19-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Not more than ~~five (5)~~ **six (6)** of the appointed members of the board may be members of the same political party.

SECTION 40. IC 13-19-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~Seven (7)~~ **Six (6)** members of the board ~~four (4) of whom must be appointed members of the board;~~ constitute a quorum.

SECTION 41. IC 13-19-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. The governor shall annually select:

- (1) one (1) of the ~~ten (10)~~ appointed members of the board to serve as chairman; and
- (2) another of the appointed members of the board to serve as vice chairman.

SECTION 42. IC 13-19-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The board shall ~~select from a list of three (3) qualified persons recommended by the governor; contract with:~~

- (1) an individual who:**
  - (A) is an independent third party; ~~who and~~**
  - (B) is not an employee of the state;**
- (2) a business firm; or**
- (3) a legal firm;**

to serve as technical secretary of the board.

(b) ~~During the interim between meetings of the board; The department technical secretary~~ shall do the following:

- (1) Handle correspondence.
- (2) Make or arrange for investigations and surveys.
- (3) Obtain, assemble, or prepare reports and data as directed by the board.

~~(c) The technical secretary shall:~~

- (4) Review all materials prepared for the board by the department to make any necessary revisions.**
- (5) Serve as a hearing officer as directed by the board.**
- (6) Convene and lead meetings to discuss matters pending before the board.**
- (7) Initiate and manage rulemaking efforts in cooperation with the department.**

(c) Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the technical secretary.

(d) The technical secretary is not a voting member of the board.

SECTION 43. IC 13-19-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The board may ~~select from a list of three (3) qualified persons recommended by the governor; contract with:~~

- (1) an individual who:**
  - (A) is an independent third party; ~~who and~~**
  - (B) is not an employee of the state; or**
- (2) a legal firm;**

to serve as legal counsel.

(b) The legal counsel shall do the following:

- (1) Advise the board on legal matters or proceedings arising from the exercise of the board's duties.
- (2) Review all materials prepared for the board by the **technical secretary and the** department for legal accuracy and sufficiency and direct the **technical secretary and the**

department to make any necessary revisions.

~~(b)~~ (c) Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the legal counsel. The legal counsel is not a voting member of the board.

SECTION 44. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 13-17-2-6; IC 13-18-1-4; IC 13-19-2-4.

SECTION 45. [EFFECTIVE JULY 1, 2003] (a) **The definitions in IC 13-11-2, as amended by this act, apply throughout this SECTION.**

(b) **Before September 1, 2003, the department shall develop and present to the water pollution control board a policy or statement under IC 13-14-1-11.5 that does the following:**

**(1) Requires, consistent with IC 13-18-22, as added by this act, the filing of an application with the department for an individual permit for wetland activity that occurs:**

- (A) after June 30, 2003; and**
- (B) before the effective date of the rules adopted under:**
  - (i) IC 13-18-22-4; and**
  - (ii) IC 13-18-22-6;**

**both as added by this act.**

**(2) With respect to an application under subdivision (1), establishes:**

- (A) the factors the department will consider in reviewing the application;**
- (B) procedures for:**
  - (i) filing of applications;**
  - (ii) action by the department; and**
  - (iii) appeals of actions by the department; and**
- (C) the period not to exceed one hundred twenty (120) days within which the department must act.**

**(3) Establishes the attributes of categories of isolated wetlands to which the filing requirements of subdivision (1) apply that are consistent with the following:**

- (A) For a Category I wetland, characterized by:**
  - (i) hydrologic isolation;**
  - (ii) low species diversity;**
  - (iii) a predominance of nonnative species, including greater than fifty percent (50%) areal cover for vegetative species;**
  - (iv) no significant habitat or wildlife use; and**
  - (v) limited potential to achieve beneficial wetlands functions.**

- (B) For a Category II wetland, characterized by:**
  - (i) domination by native species but generally without the presence of, or the habitat for, rare, threatened, or endangered species; and**
  - (ii) degradation, but with reasonable potential for reestablishing wetlands functions.**

- (C) For a Category III wetland, characterized by:**
  - (i) high levels of diversity;**
  - (ii) high proportion of native species; and**
  - (iii) high functional values.**

**(4) Establishes, consistent with IC 13-18-22, as added by this act, criteria for general permits:**

- (A) comparable to those addressed by nationwide permits under Section 404 of the Clean Water Act; and**
- (B) for wetland activity affecting:**
  - (i) Category I wetlands; and**
  - (ii) Category II wetlands;**

**smaller than one-half (1/2) acre.**

**(5) Addresses any other matter the department considers necessary to administer the process described in this subsection:**

- (A) after June 30, 2003; and**
- (B) before the effective date of the rules adopted under:**
  - (i) IC 13-18-22-4; and**
  - (ii) IC 13-18-22-6;**

**both as added by this act.**

(c) **The department's policies or statements under subsection (b) must, to the greatest extent possible, be consistent with**

IC 13-18-22, as added by this act.

(d) The department shall, before November 1, 2003, and again before November 1, 2004, report to the environmental quality service council on the progress of:

- (1) the development of the policies or statements under subsection (b); and
- (2) the adoption of rules under:
  - (A) IC 13-15-1-2; and
  - (B) IC 13-18-22.

(e) The following expire September 1, 2005:

- (1) The department's statement or policy under subsection (b).
- (2) This SECTION.

SECTION 46. [EFFECTIVE UPON PASSAGE] (a) The environmental quality service council shall do the following:

- (1) Monitor the implementation of this act.
- (2) Review the role of the department of environmental management with respect to action on requests under section 401 of the Clean Water Act (33 U.S.C. 1341) for certifications concerning projects subject to permit requirements under section 404 of the Clean Water Act (33 U.S.C. 1344), and recommend whether statutory direction is appropriate or necessary in defining that role.
- (3) Complete its consideration of the options for statutory definition of "private pond" as applied in the definition of "waters" in IC 13-11-2-265, and recommend an option, including a statement of rationale.
- (4) Evaluate the tensions between existing programs for wetlands protection and for local drainage, and recommend principles and policies for ameliorating those tensions, taking into consideration the rationale and objectives for both programs.
- (5) Recommend a framework for overall state policy on wetlands to implement the 1996 Indiana Wetland Conservation Plan with goals, objectives, and responsibilities, including recommendations on:
  - (A) as a long term strategy, the types and functions of wetlands that are valued in particular geographic areas; and
  - (B) the means for restoring, maintaining, and protecting wetlands, including identification of agencies to be involved and the incentives to be offered.
- (6) Recommend:
  - (A) composition;
  - (B) responsibilities;
  - (C) staffing; and
  - (D) funding;
 of a permanent state wetlands conservation council.
- (7) Evaluate the usefulness of a statute to create an Indiana wetland conservation commission for the purpose of coordinating state agency implementation of the state wetland policy.
- (8) Submit its final report on the matters described in the preceding four subdivisions before November 1, 2003, to:
  - (A) the governor; and
  - (B) the executive director of the legislative services agency.

(b) The environmental quality service council shall:

- (1) conduct an ongoing evaluation during the period from July 1, 2003, to November 1, 2006, of the implementation of:
  - (A) the permit program for wetlands under IC 13-18-22; and
  - (B) the Indiana wetlands mitigation bank program under IC 13-18-23;
 both as established under this act;
- (2) recommend any adjustments to either program referred to in subdivision (1) that are considered advisable to improve the operation and effectiveness of the programs, consistent with the purpose of providing an efficient permitting process and enhancing the attainment of an overall goal of no net loss of wetlands; and

(3) submit its final report on the matters described in this subsection before November 1, 2005, to:

- (A) the governor; and
- (B) the executive director of the legislative services agency.

(c) This SECTION expires November 1, 2006.

SECTION 47. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1221 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 2.

BOTTORFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1439, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-130.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 130.5. "Periodic vehicle inspection program", for purposes of IC 13-17-5, means a program requiring a motor vehicle registered in a county to undergo a periodic test of emission characteristics and be repaired and retested, if the motor vehicle fails the emissions test. The term includes entering into and managing contracts for inspection stations."

Page 1, delete lines 13 through 17.

Page 2, delete line 1.

Page 2, line 2, delete "void." and insert "void to the extent it applies to a county referred to in subsection (a).

(c) Unless the budget agency approves a periodic vehicle inspection program for a county referred to in subsection (a), the board shall amend 326 IAC 13-1.1 so that it does not apply after December 31, 2006, to a county referred to in subsection (a).

(d) The budget agency, after review by the budget committee, may approve in writing the implementation of a periodic vehicle inspection program for one (1) or more counties described in subsection (a) only if the budget agency determines that the implementation of a periodic vehicle inspection program in the designated counties is necessary to avoid a loss of federal highway funding for the state or a political subdivision. The approval must specify the counties to which the periodic vehicle inspection program applies and the time during which the periodic vehicle inspection program must be conducted in each designated county. The budget agency, after review by the budget committee shall withdraw an approval given under this subsection for a periodic vehicle inspection program in a county if the budget agency determines that the suspension of the periodic vehicle inspection program will not adversely affect federal highway funding for the state or a political subdivision."

Page 2, delete lines 3 through 7.

Renumber all SECTIONS consecutively.

(Reference is to HB 1439 as printed February 14, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1458, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 27, delete "that:" and insert "under the following circumstances:"

Page 6, line 28, delete "access" and insert "Access".

Page 6, line 30, delete "act; and" and insert "act."

Page 6, line 31, delete "access" and insert "Access".

Page 6, between lines 36 and 37, begin a new line block indented and insert:

**"(3) The office may implement the same preferred drug list that is used in the state Medicaid program."**

(Reference is to HB 1458 as printed February 20, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1519, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 7, after "riverboat," delete "The" and insert **"Except as provided in subsection (g), the"**.

Page 3, line 15, after "(d)" insert **"or (g)"**.

Page 4, between lines 12 and 13, begin a new paragraph and insert:

**"(g) This section applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:**

**(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.**

**(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.**

**(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county."**

(Reference is to HB 1519 as printed February 19, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1544, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 9 with "[EFFECTIVE JULY 1, 2005]".

(Reference is to HB 1544 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 9.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 11.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1655, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 23-2-5-3, AS AMENDED BY P.L.115-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to engage in origination activities on behalf of a licensee.

(b) As used in this chapter, "creditor" means a person:

(1) that loans funds of the person in connection with a loan; and  
(2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.

(c) As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person. "Loan broker" does not include:

(1) any bank, savings bank, trust company, savings association, credit union, or any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(2) any person authorized to sell and service loans for **the Indiana housing finance authority**, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development;

(3) any insurance company; ~~or~~

(4) any person arranging financing for the sale of the person's product; ~~or~~

**(5) any community development corporation (as defined in IC 4-4-28-2).**

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means establishing the terms or conditions of a loan with a borrower or prospective borrower.

(h) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(i) As used in this chapter, "registrant" means an individual who is registered to engage in origination activities under this chapter.

(j) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls any ownership interest in a person, regardless of whether the person owns or controls the ownership interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

SECTION 2. IC 23-2-5-5, AS AMENDED BY P.L.115-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An application for license or renewal of a license must contain:

(1) consent to service of process under subsection (e);

(2) evidence of the bond required in subsection (b);

(3) an application fee of ~~two~~ **three** hundred dollars (~~\$200~~;  
**\$300**);

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the commissioner under



subsection (f);

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

(6) a registration form setting forth the name, home address, home telephone number, and Social Security number of each employee or prospective employee of the applicant who is or who will be engaged in origination activities; and

(7) evidence that the license applicant's proposed registrants have completed the education requirements of section 21 of this chapter.

(b) A licensee must maintain a bond satisfactory to the commissioner in the amount of ~~fifty one hundred~~ thousand dollars ~~(\$50,000)~~, **(\$100,000)**, which shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee.

(c) The commissioner shall issue a license to an applicant that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration authorizing the registrant to engage in origination activities.

(d) Licenses issued by the commissioner before January 1, 2001, shall be valid, and renewal of such licenses shall not be required until January 1, 2001. Individuals engaging in origination activities for a licensee before January 1, 2001, shall not be required to apply for and receive a certificate of registration until January 1, 2001. Except as otherwise provided in this subsection, licenses and certificates of registration issued by the commissioner are valid until January 1 of the second year after issuance. The education requirements of section 21 of this chapter shall first apply to applicants for issuance or renewal of licenses or registrations effective as of January 1, 2001.

(e) Every applicant for licensure or for renewal of a license shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(f) Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

(g) Whenever an initial or renewal application for license is denied or withdrawn, the commissioner shall retain the initial or renewal application fee paid.

SECTION 3. IC 23-2-5-19, AS AMENDED BY P.L.230-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, 10, 17, and 18 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) **Any community development corporation (as defined in IC 4-4-28-2).**

(7) **The Indiana housing finance authority.**

(8) Any person who is a creditor, or proposed to be a creditor,

for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

SECTION 4. IC 24-4.6-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

#### **Chapter 5. Indiana Fair Lending and Home Loan Protection Act**

**Sec. 1. As used in this chapter, "benchmark rate" means the interest rate established under Section 152 of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations adopted under that act by the Federal Reserve Board, including 12 CFR 226.32, and the Official Staff Commentary to the regulations as each is amended.**

**Sec. 2. As used in this chapter, "bona fide discount points" means loan discount points that are:**

**(1) knowingly paid by the borrower;**

**(2) paid for the express purpose of lowering the benchmark rate;**

**(3) in fact reducing the interest rate or time-price differential applicable to the loan from an interest rate that does not exceed the benchmark rate; and**

**(4) recouped within the first four (4) years of the scheduled loan payments, if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest over the first four (4) years is equal to or greater than the dollar amount of loan discount points paid by the borrower.**

**Sec. 3. As used in this chapter, "borrower" means a person obligated to repay a home loan, including a cosigner, or guarantor.**

**Sec. 4. (a) As used in this chapter, "creditor" means a person who:**

**(1) regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments; and**  
**(2) is a person to whom the debt arising from the home loan transaction is initially payable.**

**(b) The term also means:**

**(1) any person brokering a home loan, including any person who:**

**(A) directly or indirectly solicits, processes, places, or negotiates home loans for others;**

**(B) offers to solicit, process, place, or negotiate home loans for others; or**

**(C) closes home loans that may be in the person's own name with funds provided by others and that are thereafter assigned to the person providing funding for such loans.**

**(c) The term does not include:**

**(1) a servicer;**

**(2) any state or local housing finance authority;**

**(3) any other state or local governmental or quasi governmental entity; or**

**(4) an attorney providing legal services in association with**

the closing of a home loan.

Sec. 5. As used in this chapter, "high cost home loan" means a home loan whose interest rate or points and fees exceed the benchmark rate.

Sec. 6. As used in this chapter, "home loan" means a loan, other than a reverse mortgage transaction, where the loan is secured by a:

- (1) mortgage or deed of trust on real estate in Indiana upon which there is located or there is to be located a structure or structures designed primarily for occupancy of one (1) to four (4) families and that is or will be occupied by a borrower as the borrower's principal dwelling; or
- (2) security interest on a manufactured home that is or will be occupied by a borrower as the borrower's principal dwelling.

Sec. 7. (a) As used in this chapter, "manufactured home" means a structure transportable in one (1) or more sections:

- (1) that:
  - (A) is greater than or equal to eight (8) body feet in width; or
  - (B) is greater than or equal to forty (40) body feet in length;
- (2) built on a permanent chassis; and
- (3) designed to be used as a dwelling:
  - (A) with a permanent foundation when erected on land secured in conjunction with the real property where the manufactured home is located;
  - (B) connected to the required utilities; and
  - (C) containing the required plumbing, heating, air conditioning, and electrical systems.
- (b) The term includes any structure:
  - (1) that meets all requirements of subsection (a) except subsection (a)(1)(A) or (a)(1)(B); and
  - (2) with respect to which the manufacturer:
    - (A) voluntarily files a certification required by the United States Department of Housing and Urban Development; and
    - (B) complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5401 et seq.).
- (c) The term does not include:
  - (1) rental property;
  - (2) second homes; or
  - (3) manufactured homes when not secured in conjunction with the real property on which the manufactured home is located.

Sec. 8. As used in this chapter, "points and fees" means any of the following:

- (1) An amount payable under a point, discount, or other system or additional charges.
- (2) A service or carrying charge.
- (3) A loan fee, finder's fee, or similar charge.
- (4) A fee for an investigation report.
- (5) Items exempted from computation of points and fees in extensions of credit secured by an interest in real property. However, the following items, when charged in connection with any extension of credit secured by an interest in real property, may not be included in the computation of the finance charge with respect to that transaction, provided that the creditor does not receive direct or indirect compensation in connection with the charge and the charge is not paid to an affiliate of the creditor:
  - (A) Fees or premiums for title examination, title insurance, or similar purposes.
  - (B) Fees for preparation of loan related documents.
  - (C) Escrows for future payments of taxes and insurance.
  - (D) Fees for notarizing deeds and other documents.
  - (E) Appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted before closing.
  - (F) Credit reports.
- (6) All compensation paid directly or indirectly to a

mortgage broker, including a broker that originates a loan in its own name in a table funded transaction.

(7) The cost of all premiums financed by the creditor, directly or indirectly, for:

- (A) credit life;
- (B) credit disability;
- (C) credit unemployment;
- (D) credit property insurance;
- (E) other life or health insurance; or
- (F) any payments financed by the creditor directly or indirectly for any debt cancellation or suspension agreement or contract. However, insurance premiums calculated and paid on a monthly basis are not considered financed by the creditor.

Sec. 9. As used in this chapter, "rate" means the interest rate charged on the home loan, based on an annual simple interest yield.

Sec. 10. As used in this chapter, "total loan amount" means:

- (1) the principal of the loan minus the points and fees that are included in the principal amount of the loan; or
- (2) the total line of credit allowed under the home loan for an open end loan.

Sec. 11. As used in this chapter, "trigger rate" means:

- (1) for fixed rate loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;
- (2) for loans in which the interest varies according to an index, the sum of the index rate as of the date of loan closing plus the maximum margin permitted at any time under the loan agreement; or
- (3) for all other loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the loan.

Sec. 12. A creditor making a home loan may not finance, directly or indirectly, any:

- (1) credit life insurance;
- (2) credit disability insurance;
- (3) credit unemployment insurance;
- (4) credit property insurance;
- (5) other life or health insurance; or
- (6) payments directly or indirectly for any cancellation suspension agreement or contract.

However, insurance premiums, debt cancellation fees, or suspension fees calculated and paid on a monthly basis may not be considered financed by the creditor for purposes of this chapter.

Sec. 13. When within the first three (3) years of a high cost home loan a refinancing occurs, a current creditor of that high cost home loan may only charge points and fees on the amount that exceeds the principal and interest paid to close the original loan.

Sec. 14. A creditor may not recommend or encourage default on an existing loan or other debt before and in connection with the closing or planned closing of a home loan that refinances all or any part of the existing loan or debt.

Sec. 15. A creditor may not charge a late payment fee except according to the following rules:

- (1) The late payment fee may not exceed four percent (4%) of the amount of the payment past due.
- (2) The late payment fee may be assessed only for a payment past due for at least fifteen (15) days.
- (3) The late payment fee may not be charged more than one (1) time with respect to a single late payment. If a late payment charge is deducted from a payment made on the loan and the deduction causes a subsequent default on a subsequent payment, a late payment charge may not be imposed for the default. If a late payment charge has been imposed one (1) time with respect to a particular late payment, a late payment fee may not be imposed with respect to any future payment that would have been timely and sufficient, but for the previous default.
- (4) A late payment fee may not be charged unless the

creditor notifies the borrower within forty-five (45) days following the date the payment was due that a late payment charge has been imposed for a particular late payment. A late payment charge may not be collected from any borrower if the borrower informs the creditor that nonpayment of an installment is in dispute and presents proof of payment within forty-five (45) days after receipt of the creditor's notice of the late charge.

(5) A creditor shall treat each payment as posted on the same date as it was received by the creditor, servicer, or creditor's agent, or at the address provided to the borrower by the creditor, servicer, or the creditor's agent for making payments.

Sec. 16. A home loan may not contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This section does not prohibit acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

Sec. 17. A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a release upon prepayment. A creditor must provide a payoff balance not later than seven (7) business days after the request is received by the creditor.

Sec. 18. (a) The following additional limitations and prohibited practices apply to a high cost home loan:

(1) Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the loan amount prepaid during the first twenty-four (24) months after the loan closing.

(2) A prepayment penalty may not be contracted for after the second year following the loan closing.

(3) A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of this offer shall be made in writing and shall be initialed by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure: "LOAN PRODUCT CHOICE"

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty."

(b) A high cost home loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments, unless the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(c) A high cost home loan may not include payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

(d) A high cost home loan may not contain a provision that increases the interest rate after default. However, this subsection does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents if the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(e) A high cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(f) Without regard to whether a borrower is acting individually or on behalf of others similarly situated, any provision of a home loan agreement that:

(1) allows a party to require a borrower to assert any claim or defense in a forum that is:

- (A) less convenient;
- (B) more costly; or
- (C) more dilatory;

for the resolution of the dispute than a judicial forum established in this state where the borrower may otherwise

bring a claim or defense; or

(2) limits in any way any claim or defense the borrower may have;

is unconscionable and void.

(g) A creditor may not make a high cost home loan without first providing the borrower information to facilitate contact with a nonprofit counselor approved by the United States Department of Housing and Urban Development or the Indiana housing finance authority established by IC 5-20-1-3 and copies of all documentation required from the creditor at the time of closing under the Federal Truth In Lending Act. This information must be delivered by certified mail at least seventy-two (72) hours before the closing.

(h) A creditor may not make a high cost home loan without regard to repayment ability. If a creditor presents evidence that the creditor followed commercially reasonable practices in determining the debt to income ratio, there is a rebuttable presumption that the creditor made the loan with due regard to repayment ability. The lender shall benefit from the rebuttable presumption that the borrower's statement of income is true and complete.

(i) A creditor may not pay a contractor under a home improvement contract from the proceeds of a high cost home loan unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third party escrow agent under a written agreement signed by the borrower, the creditor, and the contractor before the disbursement.

(j) A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high cost home loan or to defer any payment due under the terms of a high cost home loan.

(k) A creditor making a high cost home loan that has the right to foreclose must use the judicial foreclosure procedures of the state where the property securing the loan is located. The borrower has the right to assert in the proceeding the nonexistence of a default and any other claim or defense to acceleration and foreclosure, including any claim or defense based on any violations of this chapter, though no claim or defense is considered a compulsory counterclaim.

(l) A creditor may not engage in a practice or have a policy that encourages making a high cost home loan on the basis of race, ethnicity, gender, or age.

Sec. 19. If a creditor asserts that grounds for acceleration exist and requires the payment in full of all sums secured by the security instrument, the borrower or anyone authorized to act on the borrower's behalf at any time before the title is transferred by means of foreclosure, by judicial proceeding and sale, or otherwise, may cure the default and reinstate the home loan by tendering the amount or performance as specified in the security instrument. If the borrower cures the default, the borrower must be reinstated to the same position as if the default had not occurred, and any acceleration of any obligation under the security instrument or note arising from the default is nullified as of the date of the cure.

Sec. 20. (a) Before an action is filed to foreclose upon the home or before other action is taken to seize or transfer ownership of the home, a notice of the right to cure the default in a home loan must be delivered to the borrower, informing the borrower of the following:

(1) The nature of default claimed on the home loan and the borrower's right to cure the default by paying the sum of money required to cure the default. However, a creditor or servicer may not refuse to accept any partial payment made or tendered in response to the notice. If the amount necessary to cure the default will change during the thirty (30) day period after the effective date of the notice due to the application of a daily interest rate or the addition of late

fees as allowed by this chapter, the notice must give sufficient information to enable the borrower to calculate the amount at any point during the thirty (30) day period.

(2) The date by which the borrower must cure the default to avoid acceleration and initiation of foreclosure or other action to seize the home. The date may not be less than thirty (30) days after the date the notice is effective. The name, address, and telephone number of a person to whom the payment or tender must be made must also be disclosed.

(3) That if the borrower does not cure the default by the date specified, the creditor may take steps to terminate the borrower's ownership in the property by requiring payment in full of the home loan and commencing a foreclosure proceeding or other action to seize the home.

(4) The name and address of the creditor and the telephone number of a representative of the creditor whom the borrower may contact if the borrower disagrees with:

(A) the creditor's assertion that a default has occurred; or

(B) the correctness of the creditor's calculation of the amount required to cure the default.

(b) To cure a default under this section, a borrower may not be required to pay a charge, fee, or penalty attributable to the exercise of the right to cure a default, as provided for in this section, other than the fees specifically allowed by this section. The borrower is not liable for:

(1) attorney's fees relating to the borrower's default that are incurred by the lender before or during the thirty (30) day period described in subsection (a)(2); or

(2) a fee exceeding one hundred dollars (\$100) that is incurred by the lender after the expiration of the thirty (30) day period but before the lender files a foreclosure action or takes other action to seize or transfer ownership of the home.

After the lender files a foreclosure action or takes other action to seize or transfer ownership of the home, the borrower is liable only for attorney's fees that are reasonable and actually incurred by the lender, based on a reasonable hourly rate and a reasonable number of hours.

(c) If a default is cured before the initiation of an action to foreclose or to seize the residence, the creditor may not institute the foreclosure proceeding or other action for that default. If a default is cured after the initiation of any action to foreclose, the creditor shall take the steps necessary to terminate the foreclosure proceeding or other action. A creditor making a home loan who has the legal right to foreclose must use the judicial foreclosure procedures of the state where the property securing the loan is located. The borrower may assert in a judicial foreclosure proceeding or other action the nonexistence of a default and any other claim or defense to acceleration and foreclosure, including a claim or defense based on violations of this chapter. However, a claim or defense may not be considered a compulsory counterclaim.

Sec. 21. If the creditor or an assignee establishes by a preponderance of evidence that a violation of this chapter is unintentional or the result of a bona fide error of law or fact notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, the validity of the transaction is not affected, and no liability is imposed under section 22 except for the refusal to make a refund.

Sec. 22. (a) A person who knowingly or intentionally violates this article commits:

(1) a Class A misdemeanor; and

(2) a deceptive act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

(b) A person who violates this chapter is liable to the borrower for the following:

(1) Actual damages, including consequential and incidental damages. The borrower is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to the finance charges agreed to in the home loan agreement, plus ten percent (10%) of the amount financed.

(3) Punitive damages, if the violation was malicious or reckless.

(4) Costs and reasonable attorney's fees.

(c) A borrower may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(d) The knowing or intentional violation of this chapter or a rule adopted under the authority of this chapter renders the home loan agreement void, and the creditor has no right to collect, receive, or retain any principal, interest, or other charges with respect to the loan. The borrower may recover any payments made under the agreement.

(e) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a consumer. A consumer is not required to exhaust any administrative remedies under this chapter or under any other applicable law.

(f) A creditor or assignee in a home loan who in good faith fails to comply with this chapter may not be considered to have violated this chapter if the creditor makes full restitution for the error within sixty (60) days from the discovery of the error.

(g) The brokering of a home loan:

(1) by a home loan broker as described in section 4(b) of this chapter; and

(2) that violates any provision of this chapter;

constitutes a violation of that provision and of this chapter.

Sec. 23. The rights conferred by this chapter are in addition to rights granted under any other law.

Sec. 24. (a) The attorney general shall enforce this chapter for any violation occurring within five (5) years after the occurrence of the violations.

(b) As used in this chapter, "unit" refers to the mortgage fraud unit established by this section.

(c) The mortgage fraud unit is established in the office of the attorney general.

(d) The attorney general shall hire qualified individuals to implement the responsibilities of the unit, subject to the budget agency's approval.

(e) The unit shall do the following:

(1) Investigate allegations of fraud in connection with mortgage lending.

(2) Institute appropriate administrative and civil actions to redress fraud in connection with mortgage lending.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of fraud in connection with mortgage lending.

(4) Cooperate with appropriate federal and state agencies in the prosecution of criminal violations involving fraud in connection with mortgage lending.

(f) The unit shall cooperate with the following to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate licensing boards with respect to persons licensed under IC 25.

(2) The department of financial institutions.

(3) The department of insurance with respect to the sale of insurance in connection with mortgage lending.

(4) The securities division of the office of the secretary of state.

(5) The supreme court disciplinary commission with respect to attorney misconduct.

Sec. 25. The attorney general may file complaints with any of the agencies listed in section 24(f) of this chapter to implement this chapter.

Sec. 26. The establishment of the unit and its powers do not limit the jurisdiction of any agency described in section 24(f) of this chapter.

Sec. 27. (a) The attorney general and an investigator of the unit may do any of the following when investigating alleged

**fraud in connection with mortgage lending:**

(1) Issue and serve a subpoena for the production of records, including records stored in electronic data processing systems, for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of any person before the department to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena described in subdivision (1) or (2).

(b) The attorney general shall make recommendations to the general assembly for appropriate legislation to address fraud in connection with mortgage lending.

(c) The unit shall maintain an education program to inform consumers of mortgage loans of fraud in connection with mortgage lending. The unit shall cooperate with the agencies listed in section 24(f) of this chapter to develop and implement the education program required by this subsection.

Sec. 28. (a) The fees assessed by the county recorder to record a mortgage is increased by three dollars (\$3) per mortgage filing. The county recorder shall retain fifty cents (\$0.50) of the fee increase. One dollar and fifty cents (\$1.50) shall be credited to the Indiana housing finance authority established under IC 5-20-1-3 to identify, promote, and fund mortgage literacy training and programs throughout the state. One dollar (\$1) from the fee increase is credited to the mortgage fraud unit.

(b) An allocation of seventy-five thousand dollars (\$75,000) consisting of the increased fees under this chapter shall be made to the legislative council before any fee revenue shall be allocated to the mortgage fraud unit of the attorney general's office or the Indiana housing finance authority. The seventy-five thousand dollar (\$75,000) allocation shall be used to contract an independent organization to conduct a study of predatory lending and the causes of the high rate of foreclosure in Indiana during 2001 and 2002.

(c) The results of the study shall be reported in writing to the legislative council not later than December 31, 2004. The report is a public record. This subsection expires January 1, 2005.

(d) The legislative council may establish an interim study committee to investigate predatory lending and the high rate of foreclosure in Indiana.

Sec. 29. The fee assessed under IC 23-2-5 by the for the registration of loan brokers and originators is increased by one hundred dollars (\$100) for renewal of a registration and by one hundred dollars (\$100) for an initial registration and is credited to the loan broker regulation account established by IC 23-2-5-7.

Sec. 30. A servicer of a covered loan shall report at least monthly both the favorable and unfavorable payment history information of the borrower on payments due to the lender on a covered loan to a nationally recognized consumer credit reporting agency. This subsection does not prevent a servicer from agreeing with the borrower not to report specified payment history information in the event of a resolved or unresolved dispute with an borrower and does not apply to covered loans held or serviced by a lender for less than ninety (90) days."

Page 4, after line 16, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] This act does not affect:

- (1) rights or liabilities accrued;
- (2) penalties incurred;
- (3) crimes committed; or
- (4) proceedings begun;

before the effective date of this act. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

SECTION 6. [EFFECTIVE UPON PASSAGE] The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).

SECTION 7. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1698 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 2.

BARDON, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1671, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-1.5, AS AMENDED BY P.L.1-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1.5. "Acute hazardous waste", for purposes of **section 117.5 of this chapter and IC 13-22-4-3.1**, has the meaning set forth in 40 CFR Part 261.

SECTION 2. IC 13-11-2-89 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 89. (a) "Generator", for purposes of ~~IC 13-22-12~~, means a person that, during the preceding year, generated hazardous waste in quantities greater than:

- (1) ~~one thousand (1,000) kilograms of hazardous waste; or~~
- (2) ~~one (1) kilogram of acutely toxic waste in any month.~~

(b) "Generator", for purposes of IC 13-29-1, means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States Nuclear Regulatory Commission or a party state to produce or possess such waste. The term does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.

SECTION 3. IC 13-11-2-117.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 117.5. "Large quantity generator", for purposes of IC 13-22-4-3.1 and IC 13-22-12-3, means a person, by site, that:

(1) generates:

- (A) one thousand (1,000) kilograms or more of hazardous waste;
- (B) more than one (1) kilogram of acute hazardous waste; or
- (C) more than one hundred (100) kilograms of spill cleanup material contaminated with acute hazardous waste;

in any one (1) or more calendar months of a calendar year; or

(2) accumulates:

- (A) more than one (1) kilogram of acute hazardous waste; or
- (B) more than one hundred (100) kilograms of spill cleanup material contaminated with acute hazardous waste;

at any time during the year.

SECTION 7. IC 13-11-2-204.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 204.5. "Small quantity generator", for purposes of IC 13-22-4-3.1 and IC 13-22-12-3, means a person, by site, that:

- (1) generates more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste in any one (1) or more calendar months of a calendar year; or
- (2) accumulates more than one thousand (1,000) kilograms of hazardous waste at any time during the year."

Page 1, line 16, delete "A" and insert "Subject to subsections (c) and (d), a".

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"(c) A rule or standard adopted by a board may be more stringent than a corresponding federal provision established under federal law if:

(1) a designee of the board presents evidence to the environmental quality service council that indicates why the rule or standard should be more stringent than the corresponding federal provision;

(2) the environmental quality service council makes a recommendation to the general assembly that the rule or standard should be more stringent than the corresponding federal provision; and

(3) the general assembly enacts a statute that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision established under federal law.

(d) If the environmental quality service council reviews a rule or standard adopted by a board that is more stringent than a corresponding federal provision established under federal law and the environmental quality service council believes the rule or standard should not be more stringent, the environmental quality service council shall make a recommendation to the general assembly that the general assembly should enact a statute to:

(1) void the rule or standard; and

(2) require the board to adopt a rule or standard that is not more stringent than the corresponding federal provision established under federal law.

SECTION 6. IC 13-15-4-11, AS AMENDED BY P.L.184-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) If an applicant is operating pursuant to a continuation of an existing permit pending determination of an application for a new or renewed permit under IC 13-15-3-6, the applicant may proceed under this section after notifying the commissioner in writing of its intent to do so.

(b) If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. **Except as provided in section 12.1 of this chapter**, after reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) request and receive a refund of a permit application fee paid by the applicant; and

(ii) submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:

(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

SECTION 7. IC 13-15-4-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 12.1. An applicant may not receive a refund of a permit application fee if the permit application concerned the renewal of a permit.

SECTION 8. IC 13-15-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. The environmental management permit operation fund is established for the purpose of providing money for permitting and directly associated activities of the **following programs of the department:**

(1) National Pollutant Discharge Elimination System **program including storm water permits.**

(2) Solid waste **and program.**

(3) Hazardous waste **programs of the department and the boards; program.**

(4) **Safe drinking water program.**

SECTION 9. IC 13-18-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. For industrial permits, other than coal mine permits or stone quarry permits, the annual base fee per facility is:

(1) one thousand **one hundred** dollars (~~\$1,000~~) (**\$1,100**) for a major permit; and

(2) four hundred **forty** dollars (~~\$400~~) (**\$440**) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Actual Flow in MGD	Fee
.001 - .05	<del>\$240</del> <b>\$264</b>
.051 - .1	<del>\$360</del> <b>\$396</b>
.101 - .2	<del>\$840</del> <b>\$924</b>
.201 - .3	<del>\$1,200</del> <b>\$1,320</b>
.301 - .5	<del>\$1,680</del> <b>\$1,848</b>
.501 - 1.0	<del>\$2,060</del> <b>\$2,266</b>
1.001 - 2.0	<del>\$3,600</del> <b>\$3,960</b>
2.001 - 5.0	<del>\$5,400</del> <b>\$5,940</b>
5.001 - 10.0	<del>\$8,400</del> <b>\$9,240</b>
10.001 - 15.0	<del>\$12,000</del> <b>\$13,200</b>
15.001 - 30.0	<del>\$16,800</del> <b>\$18,480</b>
30.001 - 50.0	<del>\$22,800</del> <b>\$25,080</b>
50.001 - 100.0	<del>\$28,800</del> <b>\$31,680</b>
> 100.0	<del>\$34,800</del> <b>\$38,280</b>

Annual flow fees are reduced by twenty percent (20%) for discharges that are comprised of greater than ninety percent (90%) of non-contact cooling water.

SECTION 10. IC 13-18-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 3. Each facility for which a coal mine operator files a notice of intent under the general coal mine permit rules adopted under IC 13-18-18 shall pay an annual fee of five hundred **fifty** dollars (~~\$500~~) (**\$550**) instead of the following individual permit fees. The annual fee must accompany the initial notice of intent and is due each year on the anniversary date of the date when the initial notice of intent was filed.

Outfalls	Fee
1 Outfall	<del>\$500</del> <b>\$550</b>
2-3 Outfalls	<del>\$750</del> <b>\$825</b>
4-6 Outfalls	<del>\$1,000</del> <b>\$1,100</b>
7-10 Outfalls	<del>\$1,500</del> <b>\$1,650</b>
11-20 Outfalls	<del>\$2,500</del> <b>\$2,750</b>
21-99 Outfalls	<del>\$3,500</del> <b>\$3,850</b>

SECTION 11. IC 13-18-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 4. For stone quarry permits, the annual fee is as follows:

Outfalls	Fee
1 Outfall	<del>\$750</del> <b>\$825</b>
2 Outfalls	<del>\$1,500</del> <b>\$1,650</b>
3 Outfalls	<del>\$2,000</del> <b>\$2,200</b>
4 Outfalls	<del>\$2,500</del> <b>\$2,750</b>

SECTION 12. IC 13-18-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 8. For semipublic permits, the annual base fee per facility is:

(1) ~~seven hundred fifty~~ **twenty-five** dollars (~~\$750~~) (**\$825**) for a major permit; and

(2) two hundred **twenty** dollars (~~\$200~~) (**\$220**) for a minor

permit;  
plus the following annual discharge flow fee per facility:

Daily Average Design Flow in MGD	Fee
.001 - .05	<del>\$150</del> <b>\$165</b>
.051 - .1	<del>\$300</del> <b>\$330</b>
.101 - .2	<del>\$1,000</del> <b>\$1,100</b>
.201 - .3	<del>\$2,000</del> <b>\$2,200</b>
.301 - .5	<del>\$2,500</del> <b>\$2,750</b>
.501 - 1.0	<del>\$3,000</del> <b>\$3,300</b>
1.001 - 2.0	<del>\$3,500</del> <b>\$3,850</b>
2.001 - 5.0	<del>\$4,000</del> <b>\$4,400</b>
5.001 - 10.0	<del>\$5,000</del> <b>\$5,500</b>
10.001 - 15.0	<del>\$6,500</del> <b>\$7,150</b>
15.001 - 30.0	<del>\$7,500</del> <b>\$8,250</b>
30.001 - 50.0	<del>\$10,000</del> <b>\$11,000</b>
50.001 - 100.0	<del>\$11,000</del> <b>\$12,100</b>

SECTION 13. IC 13-18-20-9, AS AMENDED BY P.L.184-2002, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 9. **(a) Except as provided in subsection (b),** for public water system permits, the annual base fee per facility is:

(1) one thousand ~~one hundred~~ dollars (~~\$1,000~~) (**\$1,100**) for a major permit; and

(2) four hundred ~~forty~~ dollars (~~\$400~~) (**\$440**) for a minor permit;

plus the following annual discharge flow fee per facility based on projected daily average flow in MGD as set forth in a facility NPDES permit:

Projected Daily Average Flow in MGD	Fee
.001 - .05	<del>\$240</del> <b>\$264</b>
.051 - .1	<del>\$360</del> <b>\$396</b>
.101 - .2	<del>\$840</del> <b>\$928</b>
.201 - .3	<del>\$1,200</del> <b>\$1,320</b>
.301 - .5	<del>\$1,680</del> <b>\$1,848</b>
.501 - 1.0	<del>\$2,060</del> <b>\$2,266</b>
1.001 - 2.0	<del>\$3,600</del> <b>\$3,960</b>
2.001 - 5.0	<del>\$5,400</del> <b>\$5,940</b>
5.001 - 10.0	<del>\$8,400</del> <b>\$9,240</b>
10.001 - 15.0	<del>\$12,000</del> <b>\$13,200</b>
15.001 - 30.0	<del>\$16,800</del> <b>\$18,480</b>
30.001 - 50.0	<del>\$22,800</del> <b>\$25,080</b>
50.001 - 100.0	<del>\$28,800</del> <b>\$31,680</b>
> 100.0	<del>\$34,800</del> <b>\$38,280</b>

**(b) A state or local unit of government required to pay a fee described in subsection (a) may only be charged a fee equal to ninety-one percent (91%) of the amount of the fee described in subsection (a).**

SECTION 14. IC 13-18-20-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. **(a)** For storm water permits for construction activity, a fee of one hundred dollars (\$100) shall be submitted with a notice of intent (NOI).

**(b)** For storm water permits for industrial activity, the annual fee is one hundred dollars (\$100).

**(a) The following storm water permit fees shall be submitted with a notice of intent:**

General storm water permits for construction activity	<b>\$200</b>
General storm water permits for industrial activity	<b>\$300</b>

**(b) For storm water permits, the annual fees are as follows:**

General storm water permits for construction activity	<b>\$200</b>
General storm water permits for industrial activity	<b>\$300</b>

SECTION 15. IC 13-18-20-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 10.5. For NPDES general permits not otherwise listed in this chapter, the annual fee is five hundred dollars (\$500) unless a lower fee is

established in rules adopted by the water pollution control board.

SECTION 16. IC 13-20-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 3. **(a) Except as provided in subsection (b),** for solid waste permits, the application fees are as follows:

New Permit or Major Modification	Fee
Sanitary Landfill	<del>\$31,300</del> <b>\$34,430</b>
Construction\	
Demolition Site	<del>\$20,000</del> <b>\$22,000</b>
Restricted Waste Site	
Type I	<del>\$31,300</del> <b>\$34,430</b>
Type II	<del>\$31,300</del> <b>\$34,430</b>
Type III	<del>\$20,000</del> <b>\$22,000</b>
Processing Facility	
Transfer Station	<del>\$12,150</del> <b>\$13,365</b>
Other	<del>\$12,150</del> <b>\$13,365</b>
Incinerator	<del>\$28,650</del> <b>\$31,515</b>
Waste Tire Storage	
Registration	<del>\$ 500</del> <b>\$550</b>
Waste Tire Processing	<del>\$ 200</del> <b>\$220</b>
Waste Tire	
Transportation	<del>\$ 25</del> <b>\$28</b>
Permit Renewal	
Sanitary Landfill	<del>\$15,350</del> <b>\$16,885</b>
Construction\	
Demolition Site	<del>\$ 7,150</del> <b>\$7,865</b>
Restricted Waste Site	
Type I	<del>\$15,350</del> <b>\$16,885</b>
Type II	<del>\$15,350</del> <b>\$16,885</b>
Type III	<del>\$ 7,150</del> <b>\$7,865</b>
Processing Facility	
Transfer Station	<del>\$ 2,200</del> <b>\$2,420</b>
Other	<del>\$ 2,200</del> <b>\$2,420</b>
Incinerator	<del>\$ 5,900</del> <b>\$6,490</b>
Waste Tire Processing	<del>\$ 200</del> <b>\$220</b>

Minor Modification ~~\$ 2,500~~ **\$2,750**

**(b) A state or local unit of government required to pay a fee described in subsection (a) may only be charged a fee equal to ninety-one percent (91%) of the amount of the fee described in subsection (a).**

SECTION 17. IC 13-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b),** for solid waste, the annual operation fees are as follows:

	Fee
Sanitary Landfill	
> 500 TPD	<del>\$35,000</del> <b>\$38,500</b>
250-499 TPD	<del>\$15,000</del> <b>\$16,500</b>
100-249 TPD	<del>\$ 7,000</del> <b>\$7,700</b>
<100 TPD	<del>\$ 2,000</del> <b>\$2,200</b>
Construction\	
Demolition Site	<del>\$1,500</del> <b>\$1,650</b>
Restricted Waste Site	
Type I	<del>\$35,000</del> <b>\$38,500</b>
Type II	<del>\$25,000</del> <b>\$27,500</b>
Type III	<del>\$10,000</del> <b>\$11,000</b>
Processing Facility	
Transfer Station	<del>\$ 2,000</del> <b>\$2,200</b>
Other	<del>\$ 2,000</del> <b>\$2,200</b>
Incinerator	
>500 TPD	<del>\$35,000</del> <b>\$38,500</b>
250-499 TPD	<del>\$15,000</del> <b>\$16,500</b>
100-249 TPD	<del>\$ 7,000</del> <b>\$7,700</b>
<100 TPD	<del>\$ 2,000</del> <b>\$2,200</b>
Infectious Waste	
Incinerator (>7 TPD)	<del>\$ 5,000</del> <b>\$5,500</b>
Waste Tire Storage	
Registration	<del>\$ 500</del> <b>\$550</b>



Waste Tire Transportation	
Registration	\$ 25 \$28
Groundwater Compliance	
Sampling (per well)	\$ 250 \$275

(b) A state or local unit of government required to pay a fee described in subsection (a) may only be charged a fee equal to ninety-one percent (91%) of the amount of the fee described in subsection (a).

SECTION 18. IC 13-20-21-6, AS AMENDED BY P.L.218-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 6. (a) For solid waste, the disposal fees are as follows:

	Fee
Solid waste disposed into a municipal solid waste landfill per ton	\$ 0-10 \$0.20
Solid waste disposed into a nonmunicipal solid waste landfill per ton	\$ 0-10 \$0.20
Solid waste disposed into an incinerator per ton	\$ 0-05 \$0.10
Solid waste disposed into a construction/demolition waste site per ton	\$ 0-10 \$0.20

(b) There is no solid waste disposal fee for solid waste disposed into a solid waste landfill permitted to accept restricted waste solely generated by the person to which the permit is issued."

Page 2, line 9, delete "Rules" and insert "Subject to subsections (c) and (d), rules".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(c) A rule adopted under this section concerning incinerators used as hazardous waste facilities may establish requirements that are more stringent than a corresponding federal provision established under federal law if:

(1) a designee of the board presents evidence to the environmental quality service council that indicates why the rule should be more stringent than the corresponding federal provision;

(2) the environmental quality service council makes a recommendation to the general assembly that the rule should be more stringent than the corresponding federal provision; and

(3) the general assembly enacts a statute that authorizes the board to adopt a rule that is more stringent than the corresponding federal provision established under federal law.

(d) If the environmental quality service council reviews a rule adopted under this section that is more stringent than a corresponding federal provision established under federal law and the environmental quality service council believes the rule should not be more stringent, the environmental quality service council shall make a recommendation to the general assembly that the general assembly should enact a statute to:

(1) void the rule; and

(2) require the board to adopt a rule that is not more stringent than the corresponding federal provision established under federal law.

SECTION 18. IC 13-22-4-3.1, AS AMENDED BY P.L.1-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3.1. (a) As used in this section, "acute hazardous waste" has the meaning set forth in IC 13-11-2-1.5.

(b) A person that:

(1) in any one (1) or more calendar months of a calendar year generates:

(A) more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste;

(B) less than one (1) kilogram of acute hazardous waste; or

(C) less than one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste; or

(2) accumulates at least one thousand (1,000) kilograms of hazardous waste or less than one (1) kilogram of acute hazardous waste;

small quantity generator shall, before March 1 of each year, submit

to the department on forms provided by the department a report, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

(c) A: person that:

(1) in any one (1) large quantity generator; or more calendar months of a calendar year generates:

(A) more than one thousand (1,000) kilograms of hazardous waste;

(B) at least one (1) kilogram of acute hazardous waste; or

(C) at least one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste;

(2) accumulates at least six thousand (6,000) kilograms of hazardous waste or at least one (1) kilogram of acute hazardous waste; or

(3) (2) person that is a treatment, storage, or disposal facility; shall, before March 1 of each year, submit to the department either the biennial report required by the United States Environmental Protection Agency concerning the person's waste activities during the previous calendar year, or an annual report on forms provided by the department, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

SECTION 19. IC 13-22-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. For hazardous waste, the application fees are as follows:

#### New Permit Application

	Fee
Land Disposal	\$40,600 \$44,660
Incinerator (per unit)	\$21,700 \$23,870
Storage	\$23,800 \$26,180
Treatment	\$23,800 \$26,180

#### Permit Renewal or

#### Class 3 Modification

Land Disposal	\$34,000 \$37,400
Incinerator	\$21,700 \$23,870
Storage	\$17,200 \$18,920
Treatment	\$17,200 \$18,920

#### Class 2 Modification

Class 2 Modification	\$ 2,250 \$2,475
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SECTION 20. IC 13-22-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 3. For hazardous waste, the annual operation fees are as follows:

	Fee
Land Disposal	\$37,500 \$41,250
Incinerator (per unit)	\$10,000 \$11,000
Storage	\$ 2,500 \$2,750
Treatment	\$10,000 \$11,000
Large Quantity Generator	\$ 1,565 \$1,722
Small Quantity Generator	\$300
Postclosure Activity	\$ 1,500 \$1,650
Groundwater Compliance	
Sampling at active facilities (per well)	\$ 1,000 \$1,100".

Page 2, line 23, delete "The" and insert "Subject to subsections (d) and (e), the".

Page 3, after line 22, begin a new paragraph and insert:

"(d) A rule adopted under this section may be more stringent than a corresponding federal provision established under federal law if:

(1) a designee of the board presents evidence to the environmental quality service council that indicates why the rule should be more stringent than the corresponding federal provision;

(2) the environmental quality service council makes a recommendation to the general assembly that the rule should be more stringent than the corresponding federal provision; and

(3) the general assembly enacts a statute that authorizes the board to adopt a rule that is more stringent than the

corresponding federal provision established under federal law.

(e) If the environmental quality service council reviews a rule adopted under this section that is more stringent than a corresponding federal provision established under federal law and the environmental quality service council believes the rule should not be more stringent, the environmental quality service council shall make a recommendation to the general assembly that the general assembly should enact a statute to:

- (1) void the rule; and
- (2) require the board to adopt a rule that is not more stringent than the corresponding federal provision established under federal law.

SECTION 22. IC 13-22-12-10 IS REPEALED [EFFECTIVE JANUARY 1, 2005]."

Renumber all SECTIONS consecutively.  
(Reference is to HB 1671 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 4.

BOTTORFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1714, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.  
Page 2, delete lines 1 through 11.  
Page 10, line 8, reset in roman "(h)".  
Page 10, line 8, delete "a" and insert "A".  
Page 10, line 8, reset in roman "person".  
Page 10, line 12, after "determination." insert "**may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court.**".

Page 13, delete lines 16 through 42.  
Page 14, delete lines 1 through 31.  
Page 14, between lines 38 and 39, begin a new line double block indented and insert:

"(A) full;".

Page 14, line 39, delete "(A)" and insert "(B)".  
Page 14, line 40, delete "(B)" and insert "(C)".  
Page 17, line 27, delete "intervene;" and insert "**appear as an additional party;**".

Page 19, line 40, after "If" insert "**(1)**".

Page 19, line 41, delete "subsection," and insert "**subsection; and (2) the Indiana board has not issued a determination;**".

Page 19, line 41, beginning with "the tax" begin a new line blocked left.

Page 20, delete lines 41 through 42.  
Delete page 21.  
Page 22, delete lines 1 through 19.  
Page 23, line 2, reset in roman "(a)".  
Page 23, after line 42, begin a new paragraph and insert:

"(b) **A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court.**".

Page 25, line 5, delete "A commercial or an industrial taxpayer must include with".

Page 25, delete lines 6 through 8.  
Page 25, line 10, delete "and the accompanying filing fee".  
Page 25, line 11, delete "The".  
Page 25, delete lines 12 through 14.  
Page 27, delete lines 7 through 10.  
Page 27, line 11, delete "(3)" and insert "**(2)**".  
Page 27, line 16, delete "to make a determination" and insert "**upon agreement of all parties to the proceeding, to determine**".  
Page 27, line 32, delete "(a)(3)(M):" and insert "**(a)(2)(M):**".  
Page 28, between lines 16 and 17, begin a new paragraph and

insert:

"SECTION 19. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 6-1.1-5.5-4(a), as amended by this act, a person filing a sales disclosure form under IC 6-1.1-5.5 with respect to a sale of real property that occurs:

(1) after December 31, 2003; and

(2) before January 1, 2006;

shall pay a fee of ten dollars (\$10) to the county auditor.

(b) Notwithstanding IC 6-1.1-5.5-4(b), as amended by this act, and IC 6-1.1-5.5-12(d), forty percent (40%) of the revenue collected under:

(1) subsection (a); and

(2) IC 6-1.1-5.5-12;

for the period referred to in subsection (a) shall be deposited in the county sales disclosure fund established under IC 6-1.1-5.5-4.5. Ten percent (10%) of the revenue shall be transferred to the treasurer of state for deposit in the assessment training fund established under IC 6-1.1-5.5-4.7. Fifty percent (50%) of the revenue shall be transferred to the treasurer of state for deposit in the arbitration and mediation fund established by subsection (c).

(c) The arbitration and mediation fund is established to receive fees and penalties deposited under subsection (b) to pay the expenses of voluntary arbitration and mediation conducted under rules adopted by the Indiana board under IC 6-1.5-6-2(a)(2)(D) and IC 6-1.5-6-2(a)(2)(E), both as added by this act. The fund shall be administered by the treasurer of state.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.  
(Reference is to HB 1714 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1733, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 20-8.1-5.1-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.2. (a) A school corporation may establish a school policy setting forth conditions under which a student is permitted to possess and use an electronic paging device or handheld portable telephone on school grounds.**

(b) If:

(1) a student possesses or uses on school grounds an electronic paging device or handheld portable telephone that interferes with instruction; and  
(2) the student refuses to release the paging device or handheld portable telephone to the school;  
the student's refusal may constitute grounds for suspension of the student or other disciplinary action.

(c) An electronic paging device or handheld portable telephone that interferes with instruction and that is possessed or used by a student on school grounds may be seized and retained by the school until:

- (1) a meeting is held under section 12 of this chapter; and
- (2) the principal of the school determines whether the student used the electronic paging device or handheld portable telephone in violation of school policy.

SECTION 2. IC 20-8.1-5.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A principal may suspend a student for not more than ten (10) school days under section 8, **8.2**, 9, or 10 of this chapter. However, the student may be suspended for more than ten (10) school days under section 16 of this chapter.

(b) A principal may not suspend a student before the principal affords the student an opportunity for a meeting during which the student is entitled to the following:

- (1) A written or an oral statement of the charges against the student.
- (2) If the student denies the charges, a summary of the evidence against the student.
- (3) An opportunity for the student to explain the student's conduct.

(c) When misconduct requires immediate removal of a student, the meeting under subsection (b) shall commence as soon as reasonably possible after the student's suspension.

(d) Following a suspension, the principal shall send a written statement to the parent of the suspended student describing the following:

- (1) The student's misconduct.
- (2) The action taken by the principal.

(Reference is to HB 1733 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

PORTER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1761, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 16 through 42.

Delete page 3.

Page 4, delete line 1.

Renumber all SECTIONS consecutively.

(Reference is to HB 1761 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1899, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 23, delete "(b)(2)" and insert "(a)(2)".

Page 3, line 23, delete "(b)(3)" and insert "(a)(3)".

Page 3, line 28, delete "or".

Page 3, line 30, delete "." and insert "; or".

Page 3, between lines 30 and 31, begin a new line block indented and insert:

**"(4) is charged with a crime of violence (as defined in IC 35-50-1-2)."**

Page 4, line 33, delete "." and insert ", and except as provided in subsection (b), declare the cash or securities deposited and the remainder of the bail forfeited. Judgment on the cash or securities and the remainder of the bail shall be ordered by the court and entered by the clerk not sooner than one hundred twenty (120) days after the day the defendant fails to appear if the defendant does not appear during the one hundred twenty (120) day period. The clerk shall provide notice of the judgment to the defendant and other depositors of the cash or securities by mail not later than forty-five (45) days after judgment is entered by the court. The cash or securities on deposit and any funds recovered shall be deposited in the county general fund."

Page 4, line 35, after "or" insert "an".

Page 4, line 38, strike "funds" and insert "cash or securities".

Page 4, line 39, after "chapter" insert "**and the remainder of the collected or uncollected bail amount**".

Page 4, line 40, after "order the" insert "cash or securities".

Page 4, line 40, strike "funds" and insert "**and the remaining amount of the bail**".

Page 4, line 42, strike "deposit" and insert "cash or securities deposited".

Page 4, line 42, strike "bond" and insert "**the remaining amount of the bail**".

Page 5, line 1, strike "deposit" and insert "cash or securities deposited and the remaining amount of the bail".

Page 5, line 3, strike "deposit," and insert "cash or securities deposited,".

Page 5, line 3, strike "bond" and insert "**remaining amount of the bail**".

Page 5, line 5, strike "bond," and insert "bail,".

Page 5, line 8, strike "a bond has" and insert "**the cash or securities deposited and the remaining amount of the bail have**".

Page 5, line 8, after "forfeited" insert "**and judgment entered**".

Page 5, line 8, after "subsection" insert "(a) or".

Page 5, line 8, after "clerk" insert ", **not later than forty-five (45) days after the bond has been forfeited,**".

Page 5, line 9, delete "," and insert "**and record the judgment.**".

Page 5, line 11, after "appear" delete "," and insert "**within the one hundred twenty (120) day period under subsection (a),**".

Page 5, line 11, strike "shall immediately enter" and insert "**may vacate the**".

Page 5, line 11, after "judgment" delete "," and insert "**the day after the one hundred twenty (120) day period expires**".

Page 5, line 12, after "defendant" insert "**or any other depositor or guarantor**".

Page 5, line 13, delete "bail bond," and insert "bail, ~~bond~~".

Page 5, line 15, strike "a bond is" and insert "**the cash or securities deposited and the remaining amount of the bail are**".

Page 5, line 16, strike "state common school" and insert "**county general**".

Page 5, line 17, after "(less the" insert "**administrative**".

Page 5, line 19, after "amount" insert "**of the remaining bail amount**".

Page 5, line 26, strike "3.2(a)" and insert "**3.2(a)(1)**".

Page 5, line 27, strike "knowingly and intentionally".

Page 5, line 28, delete ":".

Page 5, line 29, strike "(1)".

Page 5, run in lines 28 through 29.

Page 5, line 29, delete ";" and insert "**and, except as provided in subsection (b), declare the bail bond forfeited. If the defendant was admitted to bail under section 3.2(a)(1)(B) or 3.2(a)(1)(C) of this chapter, judgment on the bail bond may be withheld for one hundred twenty (120) days. If the defendant was admitted to bail under section 3.2(a)(1)(A) of this chapter, judgment must be in accordance with IC 27-10-2-12. If the bail bond has been forfeited and judgment has been entered under subsection (c), the court:**".

Page 5, line 30, strike "(2)" and insert "(1)".

Page 5, line 31, strike "(3)" and insert "(2)".

Page 5, line 36, strike "bond" and insert "bail".

Page 5, line 38, after "or" insert "an".

Page 5, line 41, after "section" insert "**3.2(a)(1)(B),**".

Page 5, line 41, after "3.2(a)(2)" insert ",".

Page 6, after line 6, begin a new paragraph and insert:

**"(c) After a bond has been forfeited under subsection (a) or (b), the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was justification for the defendant's failure to appear within the one hundred twenty (120) day period after the date the notice was mailed, the court shall enter judgment and mail notice after the one hundred twenty (120) day period expires, without pleadings and without change of the judge or change of venue, against the defendant for the amount of the bail, and the clerk shall record the judgment.**

(d) If a bond is forfeited and the court has entered judgment under subsection (c), the clerk shall transfer to the county general fund any amount:

- (1) remaining on deposit with the court; and
- (2) collected in satisfaction of the judgment.

(e) If a defendant appeared at trial and other critical stages of the legal proceedings, the court shall order the clerk to:

- (1) return any deposit made; or
- (2) release any real estate used to secure the defendant's bail;

under section 3.2(a)(1) of this chapter to the defendant or another person, if the person made the deposit or owns the real estate, not more than forty-five (45) days after the date of the disposition of the charges against the defendant."

(Reference is to HB 1899 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

WEINZAPFEL, Chair

Report adopted.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 2:00 p.m. with the Speaker in the Chair.

Representative Behning was excused.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1401, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "lawsuit." and insert **"lawsuit, except if a committed person has filed more than one (1) civil lawsuit that a court has determined to be frivolous."**

Page 2, line 12, delete ";

Page 2, line 12, reset in roman "unless a committed person has".

Page 2, line 12, after "has" insert **"filed more than one (1) civil lawsuit that a court has determined to be"**.

Page 2, line 14, reset in roman "frivolous, unreasonable, or groundless;"

Page 2, line 36, reset in roman "(4) If a".

Page 2, line 36, reset in roman "person".

Page 2, line 36, after "person" insert **"has filed more than one (1) civil lawsuit that a court has determined to be"**.

Page 2, line 37, reset in roman "frivolous, unreasonable, or".

Page 2, reset in roman line 38.

Page 3, delete lines 9 through 14.

(Reference is to HB 1401 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 2.

SUMMERS, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1845, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 11, delete "This section applies to:" and insert **"A town council, township trustee, and township board shall:**

- (1) hold a public hearing if a town and a township that are participants in a library services authority established under IC 20-14-8 before January 1, 2003, intend to convert a library services authority to a class 1 library district; and
- (2) give public notice of a hearing under subdivision (1) for

thirty (30) days in a newspaper of general circulation in the county in which the township is located.

(b) Not later than thirty (30) days after the hearing under subsection (a)(2), any registered voter in the town or township where the public library is proposed to be established may file with the respective town council, township trustee, and township board a remonstrance that:

- (1) is signed by registered voters in the town or township where the public library is proposed to be established; and
- (2) states that those registered voters who have signed the remonstrance are opposed to the establishment of the public library.

(c) The following apply to a remonstrance that is filed under subsection (b):

(1) The remonstrance must show the following:

(A) The date on which each person signed the remonstrance.

(B) The residence of each person on the date the person signed the remonstrance.

(2) The remonstrance must include an affidavit of the person circulating the remonstrance stating that each signature on the remonstrance:

(A) was affixed in the person's presence; and

(B) is the true signature of the person who signed the remonstrance.

(3) Several copies of the remonstrance may be executed. The total of the copies constitute a remonstrance. A copy must include an affidavit as described in subdivision (2). Any signer may file the remonstrance or any copy. All copies constituting a remonstrance must be filed on the same day.

(4) The clerk of the circuit court in the county where the town or township where the public library that is proposed to be established is located shall do the following:

(A) If a name appears more than one (1) time on a remonstrance, the clerk shall strike any duplicates of the name until the name appears only one (1) time on a remonstrance.

(B) Strike the name from either the remonstrance of a person who personally, in the clerk's office, makes a voluntary written and signed request for the clerk to strike the person's name from the remonstrance.

(C) Not more than fifteen (15) days after a remonstrance is filed, certify the number of signatures on the remonstrance that:

(i) are not duplicates; and

(ii) represent persons who are registered voters in the town or township where the public library is proposed to be established, on the day the persons signed the remonstrance.

(D) Establish a record of the clerk's certification in the clerk's office and file the original remonstrance if any, and a copy of the clerk's certification with the legislative body of the town or township.

The clerk of the circuit court may only strike a person's name from a remonstrance as set forth in clauses (A) and (B).

(d) If a remonstrance is filed, the town council, township trustee, and township board shall review the remonstrance.

(e) If a remonstrance has not been filed or after the remonstrances have been reviewed, the"

Page 4, delete lines 12 through 20.

Page 4, line 21, delete "(b) A".

Page 4, run in lines 11 and 21.

Page 4, line 31, delete "(c)" and insert "(f)".

Page 4, line 39, delete "(d)" and insert "(g)".

Page 5, line 10, delete "(e)" and insert "(h)".

Page 5, line 11, delete "(c)" and insert "(b)".

Page 5, between lines 20 and 21, begin a new paragraph and insert:

"(i) The library district shall present each budget and property tax levy to the:

- (1) town council;
- (2) township trustee; and
- (3) township board.

(j) The:

- (1) town council;
- (2) township trustee; and
- (3) township board;

may submit comments to the library district regarding the budget and property tax levy before the final adoption of the budget and property tax levy by the library district."

(Reference is to HB 1845 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

SUMMERS, Chair

Report adopted.

## HOUSE BILLS ON SECOND READING

### HOUSE MOTION

Mr. Speaker: I move that Engrossed House Bill 1434 be returned to the second reading calendar forthwith for the purpose of amendment.

WELCH

Motion prevailed.

### House Bill 1098

Representative Mahern called down House Bill 1098 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1098-5)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Delete the amendment made on motion of Representative Murphy adopted February 25, 2003.

(Reference is to HB 1098 as printed February 21, 2003, and as amended on motion of Representative Murphy adopted February 25, 2003.)

RESKE

Representative Whetstone rose to a point of order, stating that the motion did not refer to specific line numbers and, therefore, the members could not ascertain the changes proposed by the motion. The Speaker ruled the point was well taken and the motion was out of order.

Representative Mahern withdrew the call of House Bill 1098.

### House Bill 1242

Representative Ayres called down House Bill 1242 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1271

Representative Mays called down House Bill 1271 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1360

Representative L. Lawson called down House Bill 1360 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1369

Representative Kuzman called down House Bill 1369 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1369-1)

Mr. Speaker: I move that House Bill 1369 be amended to read as follows:

Page 4, delete lines 19 through 42, begin a new paragraph and

insert:

"SECTION 4. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Residency Requirements~~. The commission shall not issue:

- (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or
- (2) a wine wholesaler's or liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of this state for five (5) years immediately preceding the date of the application for a permit.

SECTION 5. IC 7.1-3-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission shall not issue:

- (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or
- (2) a wine wholesaler's or liquor wholesaler's permit;

to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

SECTION 6. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations~~. The commission shall not issue:

- (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or
- (2) a wine wholesaler's or liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of this state for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ a wine wholesaler's or liquor wholesaler's permit of any type to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 7. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The commission shall not issue:

- (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or
- (2) a wine wholesaler's or liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ a wine wholesaler's or liquor wholesaler's permit of any type to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 8. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The commission shall not issue:

- (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or
- (2) a wine wholesaler's or liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ a wine wholesaler's or liquor wholesaler's permit of any type to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for

that particular type of permit.

SECTION 9. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited.~~ (a) **Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.**

(b) **It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year."**

Page 5, delete lines 1 through 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1369 as printed February 25, 2003.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

### House Bill 1430

Representative Mahern called down House Bill 1430 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1430-1)

Mr. Speaker: I move that House Bill 1430 be amended to read as follows:

Page 10, after line 42, begin a new paragraph and insert:

"SECTION 14. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. ~~(a) A political party shall conduct a state convention to: nominate the candidates of the political party for the following offices to be voted on at the next general election:~~

- ~~(1) Lieutenant governor.~~
- ~~(2) Secretary of state.~~
- ~~(3) Auditor of state.~~
- ~~(4) Treasurer of state.~~
- ~~(5) Attorney general.~~
- ~~(6) Superintendent of public instruction.~~
- ~~(7) Clerk of the supreme court.~~

~~(b) The convention shall also:~~

- ~~(1) nominate candidates for presidential electors and alternate electors; and~~
- ~~(2) elect the delegates and alternate delegates to the national convention of the political party.~~

SECTION 15. IC 3-8-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) This section applies to a political party whose nominee received at least two percent (2%) but less than ten percent (10%) of the votes cast for secretary of state at the last election for that office.

(b) A political party subject to this section shall also nominate the party's candidates for the following offices at the state convention of the party:

- (1) United States Senator.
- (2) United States Representative.
- (3) **Governor. All state offices elected at the general election.**
- (4) Legislative office.
- (5) A local office listed in IC 3-8-2-5."

Page 22, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 29. IC 3-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) At a primary election each political party subject to section 2 of this chapter shall nominate its candidates for the following offices to be voted for at the general election:

- (1) United States Senator.
- (2) Governor.
- (3) **Lieutenant governor.**
- (4) **Secretary of state.**
- (5) **Auditor of state.**
- (6) **Treasurer of state.**
- (7) **Attorney general.**
- (8) **Superintendent of public instruction.**
- (9) **Clerk of the supreme court.**
- ~~(10) United States Representative.~~

~~(4) (11) Legislative offices.~~

~~(5) (12) Local offices.~~

(b) In addition, each political party subject to section 2 of this chapter shall:

- (1) vote on candidates for nomination as President of the United States;
- (2) elect delegates from each county to the party's state convention; and
- (3) elect a precinct committeeman for each precinct in the county if precinct committeemen are to be elected under section 4.5 of this chapter.

SECTION 30. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

#### OFFICIAL PRIMARY BALLOT

Party

To vote for a person make a voting mark (X or T) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

- ☐ (1) AB \_\_\_\_\_
- ☐ (2) CD \_\_\_\_\_
- ☐ (3) EF \_\_\_\_\_
- ☐ (4) GH \_\_\_\_\_

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

- (A) President of the United States.
- (B) United States Senator.
- (C) Governor.
- (D) Lieutenant governor.**
- (E) Secretary of state.**
- (F) Auditor of state.**
- (G) Treasurer of state.**
- (H) Attorney general.**
- (I) Superintendent of public instruction.**
- (J) Clerk of the supreme court.**
- ~~(K) United States Representative.~~

(2) Legislative offices:

- (A) State senator.
- (B) State representative.

(3) Circuit offices and county judicial offices:

- (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
- (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
- (C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-10.5-4-2.

- (E) Prosecuting attorney.
- (F) Clerk of the circuit court.

(4) County offices:

- (A) County auditor.
- (B) County recorder.
- (C) County treasurer.
- (D) County sheriff.
- (E) County coroner.
- (F) County surveyor.
- (G) County assessor.
- (H) County commissioner.
- (I) County council member.

(5) Township offices:

- (A) Township assessor.
- (B) Township trustee.
- (C) Township board member.
- (D) Judge of the small claims court.
- (E) Constable of the small claims court.

(6) City offices:

- (A) Mayor.

- (B) Clerk or clerk-treasurer.
- (C) Judge of the city court.
- (D) City-county council member or common council member.
- (7) Town offices:
  - (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

- (1) Precinct committeeman.
- (2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

- (1) School board offices to be elected at the primary election.
- (2) Other local offices to be elected at the primary election.
- (3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,  
if required by law.)

"Shall (insert public question)?"

☐ YES  
☐ NO".

Renumber all SECTIONS consecutively.

(Reference is to HB 1430 as printed February 25, 2003.)

FRY

After discussion, Representative Fry withdrew the motion.

HOUSE MOTION  
(Amendment 1430-2)

Mr. Speaker: I move that House Bill 1430 be amended to read as follows:

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 3-6-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Subject to subsection (b),** each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election may have precinct committeemen elected at the same time as a primary election in accordance with IC 3-10-1-4.5 if provided by the rules of the political party.

**(b) A political party may not elect precinct committeemen at the same time as a primary election unless the rules of the political party provide for the election county chairmen not later than March 31 of the year following the year precinct committeemen are elected."**

Renumber all SECTIONS consecutively.  
(Reference is to HB 1430 as introduced.)

THOMPSON

The Speaker ordered a division of the House and appointed Representatives Stilwell and Bosma to count the yeas and nays. Yeas 44, nays 51. Motion failed. The bill was ordered engrossed.

#### House Bill 1587

Representative Summers called down House Bill 1587 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### House Bill 1816

Representative L. Lawson called down House Bill 1816 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### House Bill 1972

Representative Stilwell called down House Bill 1972 for second

reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1972-1)

Mr. Speaker: I move that House Bill 1972 be amended to read as follows:

Page 3, delete lines 10 through 18.

Renumber all SECTIONS consecutively.

(Reference is to HB 1972 as printed February 25, 2003.)

STILWELL

Motion prevailed. The bill was ordered engrossed.

#### House Bill 1431

Representative L. Lawson called down House Bill 1431 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### House Joint Resolution 7

Representative Welch called down House Joint Resolution 7 for second reading. The joint resolution was read a second time by title. There being no amendments, the joint resolution was ordered engrossed.

### ENGROSSED HOUSE BILLS ON THIRD READING

#### Engrossed House Bill 1245

Representative Ayres called down Engrossed House Bill 1245 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 244: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Bray.

#### Engrossed House Bill 1209

Representative Herrell called down Engrossed House Bill 1209 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 245: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Nugent and Sipes.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

#### Engrossed House Bill 1571

Representative Grubb called down Engrossed House Bill 1571 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representatives Gutwein and Stutzman were excused from voting.

Roll Call 246: yeas 69, nays 24. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Hershman, Lewis, and Jackman.



**Engrossed House Bill 1605**

Representative Reske called down Engrossed House Bill 1605 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 247: yeas 90, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman and Lanane.

**Engrossed House Bill 1643**

Representative Hasler called down Engrossed House Bill 1643 for third reading:

A BILL FOR AN ACT concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 248: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Dillon, Simpson, C. Lawson, and Broden.

**Engrossed House Bill 1682**

Representative Kromkowski called down Engrossed House Bill 1682 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? On the motion of Representative Fry the previous question was called.

Roll Call 249: yeas 51, nays 45. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

**Engrossed House Bill 1718**

Representative Klinker called down Engrossed House Bill 1718 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 250: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Alting, Breaux, C. Lawson, and Sipes.

**Engrossed House Bill 1734**

Representative Ayres called down Engrossed House Bill 1734 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 251: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server, Rogers, and Sipes.

The Speaker Pro Tempore yielded the gavel to the Speaker.

**Engrossed House Bill 1749**

Representative Fry called down Engrossed House Bill 1749 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 252: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller, Lanane, and Paul.

**Engrossed House Bill 1751**

Representative Mays called down Engrossed House Bill 1751 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 253: yeas 69, nays 25. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray and Broden.

**Engrossed House Bill 1822**

Representative Reske called down Engrossed House Bill 1822 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 254: yeas 84, nays 11. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Lewis.

**OTHER BUSINESS ON THE SPEAKER'S TABLE****MESSAGE FROM THE SENATE**

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 26, 35, 36, 340, 389, 411, 462, 482, and 528 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

**MESSAGE FROM THE SENATE**

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Joint Resolution 1 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

**MESSAGE FROM THE SENATE**

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 26 and the same is herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 25 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## RESOLUTIONS ON FIRST READING

## Senate Concurrent Resolution 25

The Speaker handed down Senate Concurrent Resolution 25, sponsored by Representative Kuzman:

A CONCURRENT RESOLUTION honoring the Greater Crown Point Chamber of Commerce on its 50th anniversary of service and for its continuing dedication to promoting civic pride and economic development throughout the community of Crown Point.

*Whereas, An enthusiastic group of business people at Crown Point City Hall convened its first Chamber of Commerce on January 26, 1914;*

*Whereas, Through the years, which included two World Wars, interest in the organization and the Chamber declined dramatically;*

*Whereas, Recognizing the need for an organization to again represent them, several business leaders reorganized the Greater Crown Point Chamber of Commerce in September of 1953;*

*Whereas, Since that time, the Chamber has continued to represent a collective voice for all Crown Point businesses, providing each business an opportunity to express its views and to work in the community to resolve common problems in a spirit of good will;*

*Whereas, The Chamber today consists of 300 active members who volunteer for events and activities throughout each year;*

*Whereas, The Chamber promotes many of these special events and takes pride in all of the festivities that are enjoyed by Crown Point residents, business members and visitors alike;*

*Whereas, Those seeking information about the city have always been welcomed by the Chamber of Commerce throughout its 50 year history;*

*Whereas, The Chamber can be proud of its enthusiastic beginning and its resurgence into the community of Crown Point in 1953; and*

*Whereas, On its 50th anniversary, the Greater Crown Point Chamber of Commerce continues to promote economic development and helps to maintain the city's reputation as a wonderful place to live and work: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes and congratulates the Greater Crown Point Chamber of Commerce on its 50th anniversary.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to the Greater Crown Point Chamber of Commerce.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

## Referrals to Ways and Means withdrawn

The Speaker announced the referral of House Bills 1278, 1523, and 1707 to the Committee on Ways and Means, pursuant to House Rule 127, had been withdrawn

## PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1864, Roll Call 221, on February 26, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yeas."

CRAWFORD

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 221 to 97 yeas, 0 nays.*]

## HOUSE MOTION

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1126.

PELATH

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Ripley be added as coauthor of House Bill 1128.

PELATH

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Friend and Scholer be removed as coauthors of House Bill 1129.

C. BROWN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1195.

LYTLE

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be removed as coauthor of House Bill 1439 and that Representative Oxley be substituted as coauthor.

BOTTORFF

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Liggett be removed as author of House Bill 1558, Representative L. Lawson be substituted as author, and Representative Liggett be added as coauthor.

LIGGETT

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Mays and Whetstone be added as coauthors of House Bill 1558.

L. LAWSON

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Denbo be removed as author of House Bill 1575, Representative Bischoff be substituted as author, and Representative Denbo be added as coauthor.

DENBO

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Bottorff be added as coauthor of House Bill 1659.

WOLKINS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Aguilera and Kuzman be added as coauthors of House Bill 1894.

STEVENSON

Motion prevailed.

On the motion of Representative Dobis, the House adjourned at 4:05 p.m., this twenty-seventh day of February, 2003, until Monday, March 3, 2003, at 9:00 a.m.

B. PATRICK BAUER

Speaker of the House of Representatives

DIANE MASARIU CARTER

Principal Clerk of the House of Representatives